

POLS 229: Presidents Tyler and Andrew Johnson
Spring 2005 – Professor Andrew McFarland

Presidential Prerogatives

President Andrew Jackson, 1829-1837.

Very aggressive. Fights for “common man” against wealthy elitists (in his view).

Appointment power. The President appoints the cabinet and subcabinet. The Senate confirms with majority vote. So can the President fire a cabinet member without getting permission of the Senate? The Constitution does not make an explicit statement about this. But through tradition backed by the Supreme Court (which almost always backs the President), the President has acquired the prerogative power of the dismissal power.

Jackson fires his Secretary of the Treasury and makes it stick. The Secretary’s supporters in the Congress argued that it was unconstitutional to fire the cabinet member. This series of events also shows that the President controls the budgetary process. Hitherto the Presidents had left the budget to the Secretary of the Treasury under general policy direction.

The veto. Another major impact on the history of the Presidency was Jackson’s use of the veto. He vetoed a proposal for a national bank, the predecessor idea to the Federal Reserve Bank idea. Jackson felt that such a bank would be controlled by Eastern wealthy aristocrats.

This was the first time a President had vetoed a major bill for policy reasons, as opposed to constitutional reasons. Previous Presidents had believed that the veto should be used only to stop a bill that was seen as unconstitutional. Since Jackson, Presidents have enhanced their power through the use of the veto, especially since the threat of a veto deters the opposition from pushing a bill. Remember it takes 2/3 vote in both houses of Congress to override a veto; this is usually very difficult to do.

Patronage. Jackson also pushed the patronage system for federal hiring. There was no civil service so he fired Whig employees and put in Democrats. Patronage jobs included postmaster, customs clerks, and tax officials. Jackson was the first president to be elected by mass voting of adult white males. Other Western societies at this time, except for Norway, did not permit all adult males to vote. This was a U.S. “first.” But of course slaves did not vote.

Other Presidents, especially Jefferson, had previously worked at being the leader of their political party, but previous Presidents had worked at party affairs among elected officials and social elites. Jackson worked to construct a national party, based on the common man, which could then mobilize nationally to get out the votes in a presidential election. John Tyler, President 4/1841 to 3/1845.

The Whigs put him on the ticket as a balancing candidate for vice-president with General William Henry Harrison, who was elected President. But Harrison died after only a month in

office, and the vice-president, Tyler, acceded to the office of President. Tyler was a Democrat who had joined the Whig party, but Tyler did not actually agree with much of the Whig platform. This is an example with the problems that can occur when ticket balancing is used to pick the vice president [as opposed to Bush & Cheney or Clinton & Gore].

The Constitution does not clearly state what it means to say that the presidency “devolves” upon the vice-president. For instance, it is an American custom to hold an interim election in such circumstances. Some Whigs tried to claim that Tyler was not a true president, but only an “Acting President.” However, from the beginning Tyler insisted he was fully the president and acted as such. He made this claim to power stick, and it set the precedent for future circumstances, as Tyler was actually the first vice-president to accede to the presidential office. The Whigs had a majority in Congress, but there was a strong representation of Democrats in Congress and they backed Tyler.

Tyler vetoed the central elements of the Whig platform: the national bank, and also high-tariff measures. He made these vetoes stick. This demonstrated the considerable power inherent in the presidential office. Tyler was in a very difficult position, but he could at least veto his opponents’ measures, and other presidents can do the same, if they have a reasonable degree of political skill.

Whig view of U.S. government: Congress should be the most dominant branch; Congress is closest to the people. Hence the President’s authority should be limited in regard to the veto and to the dismissal power.

Jacksonian view of U.S. government: the President should aggressively assert his authority against Congress, because only the President is elected by all of the people. The President is likely to be the best representative of the common man (person).

Andrew Johnson: 4/1865 to 3/1869

This was another ticket balancing vice president who became president. Johnson was a Democrat although Lincoln was a Republican, but Johnson was an anti-Confederate Southerner from Tennessee and was good for balancing the ticket. But upon becoming President, Johnson got into a series of major fights with the leaders of the Republican party in Congress, who eventually tried to get rid of Johnson through impeachment.

Johnson differed from the Republican congressmen who wanted to keep Northern troops in the South to protect the rights of blacks: equal protection under the laws and the right to vote.

The Republicans wanted their representative Secretary of War Stanton to continue in this office and to supervise the military occupation of the South. They knew that Johnson would try to fire Stanton, so the Republicans passed the Tenure in Office Act, which said that the Senate had to approve of firing officers earlier confirmed by the Senate. Johnson fired Stanton and then Congress brought impeachment proceedings. The House voted to impeach (i.e. indict, 126-47 was the vote). The Senate tried Johnson but was one vote short of the 2/3 necessary to convict. A few Republican Senators believed that the President had the right to fire officers in a presidential administration without getting the approval of the Senate. Andrew Johnson’s term was over in a few months, and of course he was not nominated for President by either political party as he was very unpopular.

This case set a precedent that it is very difficult to impeach a President, and it was 106 years before the issue came up with Nixon and Watergate in 1974, and then with Bill Clinton in 1998.

Andrew Johnson preserved the “presidential dismissal power.” However the Andrew Johnson administration marked the beginning of an era (1865-1901) in which Congress was relatively strong and presidents were relatively weak before the aggressive, popular Theodore Roosevelt became president in 1901.

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The President and the Supreme Court

The President nominates all federal judges, including the Supreme Court. The judges are confirmed by the Senate, but *not* by the House. The confirmation is a majority vote, and not a two-thirds vote.

Federal judges serve for life. They can be impeached, but seldom are. Recently, only one or two federal judges are impeached in a decade. Impeachment ties up the whole Senate for a trial, so instead, judges have been tried before a committee of the Senate. But this process may be found to be unconstitutional.

There are three levels of federal judges: 649 district judges in 89 district courts; 179 appeals judges in 13 appeals courts, 11 of them defined by geographic area, and of course nine U.S. Supreme Court judges. In addition, there are federal courts for specialized topics such as federal bankruptcy courts.

Senatorial Courtesy. The President consults with the senior Senator of the President’s own party before nominating someone to a federal district court in that state. This Senator normally has a veto power over the President’s district court nominations. But this does not happen if there is no Senator from the President’s party from that state.

Example: President Bush would consult Sen. Fitzgerald as the senior Republican from Illinois. Previously President Clinton would consult Sen. Durbin as the senior Democrat from Illinois. When Bush the first was president, if he wanted someone for a district court in Indiana, he would consult the senior Republican Senator, Richard Lugar, rather than the then junior Republican Senator, Dan Coats (since defeated).

But the President does not follow this procedure in nominating appeals court judges or the Supreme Court judges.

This allows a Senator to veto his political opponents, and to build his prestige as judge aspirants strive to keep on a Senator’s good side. In turn, the President knows the Senator will not oppose the nominee, which might kill the nomination.

A president may eliminate potential nominees who are not popular in the Senate. Under Clinton this meant that some liberal Democrats were not put forward; Clinton has tended to

nominate noncontroversial moderates for judgeship who will have a high chance of approval in the Senate. Due to the bad blood between Clinton and the Republicans, when in the Senate majority, the Republicans were slow to act on many judgeship nominees, refusing to act for three years in one case.

Currently there is conflict between Senate Democrats and President Bush, as the Democrats are refusing to endorse several nominees whom they think are extremely conservative. The Democrats were in control of the Senate and the Senate Judiciary Committee during 2002, which voted down the nominee Patricia Owens for the chief federal appeals court. Democrats are angry that Owens is adamantly opposed to abortion; Bush is angry because most see Owens as very intelligent. While the Democrats in 2003 approved of most of Bush's nominations, certain nominations have become major ideological issues, such as the Pickering nomination from Mississippi. Meanwhile, Miguel Estrada, a Hispanic conservative backed by Bush, withdrew his own nomination for the major federal appeals court. It is generally thought that Bush would like to put a Hispanic conservative on the Supreme Court in order to appeal to Hispanic voters.

The Senate has refused to confirm a substantial number of nominees to the Supreme Court, two rejected under Nixon (Haynesworth, Carswell), and Robert Bork under Reagan. Bork was famous for his conservative legal scholarship at Yale and for being the official willing to fire the independent prosecutor of Nixon when Nixon ordered it, after the Attorney General and deputy A.G. refused and resigned.

Presidents sometimes initiate a nomination for the Supreme Court, and then withdraw it when strong opposition in the Senate develops. This happened with Douglas Ginsberg under Reagan and with the nomination of Abraham Fortas for Chief Justice under LBJ. Fortas had been an officer of a group which had investments in a casino, which was considered scandalous in 1968. Ginsberg had smoked marijuana at student parties twenty years previous to his nomination.

Court-packing fight under FDR: The Constitution does NOT set the number of Supreme Court justices, but that number has been set by statute at nine since about 1870. FDR wanted to increase the number of justices to 15 when the Court began to declare major New Deal legislation as unconstitutional. Congress did not agree to increasing the number of judges on the Court. However two Supreme Court justices retired, and one modified his interpretations, so the Court stopped the termination of New Deal legislation.

Presidents nominate judges from their own political party, and only a few from the other party. Occasionally as with Justice Breyer, no one is sure whether he is aligned with one party or the other. Most judges generally reflect the politics of the President who appoints them, although a few turned out to be unpredictable, such as Republicans Earl Warren and William Brennan, who are noted for their liberal judicial decisions. In 2003, the conservative bloc on the Court was Scalia, Thomas, and Rehnquist, while the moderate block was Stevens, Ruth Ginsberg, Breyer, and Souter, with O'Connor and Anthony Kennedy as basically conservative, but yet swing voters.

O'Connor has recently been very influential as the swing vote, in 2003 supporting limited affirmative action and also the repeal of laws against gay sex. Earlier she was influential in being reluctant to initiate major restrictions on abortion, although supporting some minor restrictions on abortion.

However, one should realize that many (perhaps about half) significant decisions are legalistic and political inclinations are not relevant. For instance in June 2000 the Court decided that under the 1974 federal pension law, a person could not sue her HMO for negligence. Such a decision was a straight legal one, leaving no room for a Justice's views on health maintenance organizations.

Throughout the federal system as a whole, including the district and appeals courts, Democratic appointed judges tend to be pro-choice, for affirmative action, and for more restrictions on police. Republican judges are more supportive of restrictions on abortion, on affirmative action, and restrictions on the rights of the accused. Republican Court justices are more disposed to limit the powers of the federal government in some cases where they are seen as intruding on state governments.

Therefore, in a presidential election, a leading issue is the future of the federal courts, although this is not usually clearly discussed and many voters do not think about it. More than half of this issue is the nature of future Supreme Court appointments. For instance, with G.W. Bush as President and a Republican Senate, the Court could become a lot more conservative, especially if two Justices died or retired. Supreme Court justices do not leave the Court until they become very old, but district court judges often stay about ten years and then resign to go back to private practice. As federal judges, they make about \$140,000 a year, but as top flight lawyers, many district judges can make much more than that, money they may need if they have children attending expensive private colleges. Accordingly, the predominately conservative Reagan-Bush federal district court appointees have been largely replaced by the moderate-liberal Clinton appointees, and the reverse could happen with eight years of G.W. Bush in office.

The Supreme Court and the President

Overall the Court has not created many problems for the President. In the 20th Century, the Court gave a broad interpretation to the powers of the federal government, relying on the interstate commerce clause, among other justifications. Within a powerful federal government, the Court has agreed to expansions of the President's foreign policy and defense authority, although limitations were placed in the steel seizure case.

Marbury vs. Madison (1803) means that the Supreme Court can say "no" to congressional laws and presidential actions the Court deems unconstitutional. The Court has not used this power frequently against presidential orders and actions, although at times the Court has thrown out laws the President supported, especially during FDR's first term, precipitating the court-packing crisis. The authority of the Court to eliminate unconstitutional laws and presidential orders is known as **judicial review**.

Presidents have obeyed the Supreme Court's rulings. There have been no out-and-out confrontations with the President adamantly refusing to obey. Andrew Jackson threatened one, but the case became moot. "John Marshall" has made his decision, now let him enforce it!" There were conflicts with Jefferson and Lincoln about whether a President could refuse to testify in judicial proceedings. The President might not act with dispatch to implement a Court decision, e.g. Eisenhower did little to implement school integration, although he did intervene with federal troops to prevent a riot in Little Rock.

The Court versus Nixon. The Court forced Nixon to do things he did not want to do, especially to give up the Watergate tapes. The Court declared the idea of presidential impoundment of funds to be unconstitutional; impoundment meant that the President could refuse to spend money which the Congress had specifically appropriated. The Court also made the Justice Department use search warrants in its search for leakers of information embarrassing to the Nixon Administration, and it prevented a prosecution of The New York Times for publishing the Pentagon Papers, Defense Department memos about the decision to enter the war in Vietnam. But the Court has not clashed so directly with any of the presidents since Nixon.

In the Paula Jones case, the Supreme Court ruled that civil litigation could proceed against a President still holding that office. This led to Clinton's controversial testimony before a jury regarding his sex life, a major legal basis for the impeachment. The justices did not foresee the impeachment controversy, and argued that a civil case would not undermine the public interest by consuming much of the chief executive's time and energy, as opposed to delaying such a case until after the president serves office. This decision is now widely regarded as one of the worst Supreme Court decisions in its history, since the major argument in the opinion is no longer credible. Probably the Court will find ways to delay such civil suits against the President in the future. {Any President who ran a business could be sued for racial or sexual discrimination in hiring, with such a lawsuit paid for by a wealthy opponent of the President. }

During the G.W. Bush administration, a new issue appeared. Is it permissible for the Senate to filibuster against presidential judicial nominations? The Democrats have done this on a few (about three) occasions. Filibuster means to speak continually so that a subject cannot be put up for a vote. It takes 3/5 of the Senators present to stop a filibuster. This means that the most controversial judicial nominations would need 60 votes if the filibuster is used.

The President does not meet with Supreme Court justices. This is a custom that has developed as an expression of the separation of powers philosophy. Washington did not start this custom, because he met with Chief Justice John Jay to discuss foreign policy issues. But since then, this type of meeting has been avoided. Nixon met with Chief Justice Warren Burger a few times, but these meetings were not announced to the public, and when they became known, were seen to be a violation of good government practice. We do not know whether the two actually discussed controversial issues. Since Nixon, all presidents have avoided meetings with Supreme Court justices.

Cabinet and decision making

Some presidents thrive under a fluid system of advisers, and one should not criticize them for not following business management theory. Examples of such presidents are FDR, Truman, and Kennedy. Presidents may like to have some competition among advisers to get more than one point of view on policy decisions. This is the theory of the classic study of the presidency, Presidential Power by Richard Neustadt. Kennedy and Clinton were influenced by this book. Clinton probably went too far with the fluid staff organization approach. For a while Clinton was meeting with Dick Morris in secret; Morris was a major adviser emphasizing the need for centrist political positions.

The increasing number of government departments since the Civil War era means an increase in cabinet members, which made the cabinet unwieldy as compared to the early Nineteenth Century. Some members of the Cabinet have little to contribute to discussions outside of their field; for instance, a Secretary of Agriculture may know little about foreign policy.

There is nothing in the Constitution which says that a President has to act in accordance with a cabinet vote. In fact, such votes are seldom taken. Presidents who used the Cabinet would listen to their advice, but the Cabinet was not regarded by them as an authoritative decision making body.

Presidential Office

There is now a presidential chief-of-staff (Nixon: Haldeman, Reagan: Regan, Bush: Sununu; Clinton, Bowles; GW Bush: Andrew Card). Kennedy and LBJ did not use a chief-of-staff but as the text author Pfiffner notes, most conclude that the President needs a chief-of-staff.

White House advisers: 500-600 actually work in the White House, counting secretaries and other support persons. The payroll may be reported as 400 for political reasons.

Normally there is a domestic policy council in the White House, and also an economic policy council. In addition there is the important National Security Council. These councils report directly to the President. They are not part of the cabinet; they are advisers only for the President.

A President may organize the White House under the centralized management of the chief-of-staff (Eisenhower), he may opt for a highly fluid system (FDR, Clinton) where many have direct access to the President, or he may opt for the collegial system with a fair number of advisers coordinated by a facilitator chief-of-staff (GW Bush). Reagan organized the WH staff under three persons, basically independent of one another: Ed Meese (policy), Jim Baker (politics), and Mike Deaver (support & logistics). This occurred in Reagan's first term. This produced competition between the Meese faction of advisers and the Baker faction. However, Reagan often got two or more points of view on an issue. Reagan was worn down by the conflict, so he decided at the beginning of his second term to send Meese and Baker to the Cabinet, and to go to the centralized chief-of-staff system. But this did not work under the autocratic Don Regan, who gave Reagan one point of view. This seems to be a cause of the Iran-contragate scandal, as Regan set up Reagan, who did not understand these events. Later Regan was fired for not protecting the president's interests, and Reagan went to another system, the collegial system with self-effacing Howard Baker as the chief-of-staff.

Two Big Mistakes

Political science warns against the following disasters in the system of organizing advice to the President:

1. Avoid “groupthink.” Groups of advisers may put social pressure on one another to agree with one another. This was the problem with advice to Kennedy on the Bay of Pigs invasion of Cuba; a few advisers were critical of the idea but they were afraid to go against the group pressure to agree on a course of action. Outside observers were surprised that Kennedy’s advisers agreed on the dumb idea that landing a thousand Cuban exiles in Cuba would lead to the military overthrow of the Castro regime. Critics charge that G.W. Bush’s advisers may have had a groupthink problem on weapons of mass destruction in Iraq.

It is common management practice to have someone to play the role of “devil’s advocate” on a committee to break up groupthink. But this can be just tokenism; LBJ had George Ball, an opponent of the Vietnam War, criticize policymaking, but Ball did not seem to have that much influence and he quit the administration.

2. Avoid the hierarchy and boss structure in the presidential office. Some Presidents have established a dominating chief-of-staff in the President’s office; the powerful assistant then makes the President’s life easier by keeping conflicts away from the President and settling these conflicts himself. However, when the chief of staff gets that strong he may present the President with one-sided options and give him a distorted picture of situations by filtering out information that the chief-of-staff considers misleading.

Such dominating chiefs-of-staff included Sherman Adams (Eisenhower), Henry Haldeman (Nixon), Donald Regan (Reagan), and John Sununu (the first Bush). Each of these got the President into trouble and each was fired.

President G.W. Bush understands this idea, and that is why he has a moderate and a facilitator in the job of chief of staff (Andrew Card).

National Security Council

The National Security Council was founded in 1947 to coordinate foreign affairs with defense policy. It includes the President, Vice-President, Secretary of Defense, Secretary of State, the chief of staff of the armed forces, the head of the CIA, and the National Security Advisor to the President, that is the staff head of the NSC (Kissinger, Sandy Berger, Condoleezza Rice, etc.) At times the NSA has become very powerful and when Kissinger had this job, he was a rival to the Secretary of State under Nixon. If the NSA and the Secretary of State have conflicting views, their conflicting public statements may confuse foreign leaders, as happened under Carter when Secretary of State Vance disagreed with NSA Brzezinski’s hard-line views. While this is a problem, the President will get two points of view in this situation. The NSA meets with the President as his first or second appointment in the morning, usually four times a week. At the beginning of the day, the President normally gets his national security briefing, with the overnight intelligence report and news summary. National security events are discussed with the NSA and possibly other advisers called into the President’s morning meetings.

During a foreign policy crisis, the President will meet with the NSC, but he will add other advisers to the groups as he prefers. This is what Kennedy did during the Cuban missile crisis of 1962. The expanded NSC was referred to as the ExCom, the executive committee for the crisis.

White House Organization: see excellent diagram, 88-89.

Eight functions for the White House staff:

1. National security information
2. Domestic policy information
3. Economic policy and coordination
[Since Carter, there have been both domestic and economic councils, except for one year under the first Bush.]
4. Administration: personal care of the President and travel planning.
5. Congressional relations; the position of legislative liaison.
6. Public relations: the presidential press adviser and spokesperson; there may be persons to deal with interest groups and who provide general political advice.
7. The President's legal adviser; what are the powers of the executive branch in some situation?
8. Personnel advice; who the President should appoint to government jobs.

Executive Office of the President

See diagram in book, page 102. This includes the White House and staff agencies which report to the President, as opposed to cabinet departments or other agencies which are not staff workers for the President.

The Office of Management and Budget is, along with the National Security Council, one of the more important staff agencies. It coordinates the President's budget with all the agencies requesting money and authority for new programs, hence new spending. The OMB thus puts together the President's budget; it puts together the President's yearly program; it coordinates the

President's budget and program when agencies have conflicts; it also audits departments and agencies to make sure they are spending money correctly. OMB is discussed further later in the course.

Note by employment and budget figures which are the larger and smaller of the EOP advisory agencies. OMB has 527 employees to advise the President on budget, spending, new programs, and whether to exercise the veto. Now the NSC staff is listed as 60, but under Nixon it was 180 when the famous foreign policy leader, Henry Kissinger, was head of the NSC. For Nixon's first term, NSC chief Kissinger (known as the NSA, or National Security Advisor) was more important than the Secretary of State. In the second term, Kissinger became the Secretary of State.

As seen on page 102, there are a number of other advisory units in the White House staff. The office of U.S. Trade Representative has become much more important since 1990 and is now one of the largest advisory units in the White House. The Office of National Drug Control Policy is

also a major advisory unit, expanded under the first Bush, and it is unlikely to be cut back because presidents do not want to appear to be soft on drugs. There is also the Council on Economic Advisers, three academic economists who advise the President; they have a small staff. There is a Council on Environmental Quality (CEQ), a small unit. There is also a small Office of Science and Technology Policy. Some of these offices are not mandated by law and a President can abolish them, such as the OSTP.

The President may appoint special commissions to advise him(her) on a policy issue. These are usually some combination of national political leaders and experts, together with staff. This was a favorite policy mechanism of Lyndon Johnson, who appointed citizens commissions to study issues such as higher education policy or health care. These commissions would issue recommendations, always to expand the government's role, and LBJ would then advocate them as part of his Great Society program. Among the commissions: LBJ to study riots and violence, to study racial conflict; Nixon on pornography; Eisenhower and Carter on national goals and agendas; both Carter and Reagan on immigration policy; Reagan: Central America policy; Clinton: Kerrey commission on the deficit; the "Hillary" health policy commission; Reagan, Clinton, and G.W. Bush have had social security commissions. Bush had an energy commission under Cheney, the one that is being sued for not having open meetings.

Usually the President is interested in the advice given by a commission, but sometimes it is a device used for political reasons to indicate that the President cares about some question, even when the President is not likely to initiate legislation.

The President and the Executive Branch

There are 15 cabinet Departments. Four of these are called the "inner cabinet," because they are seen to be the most important: State, Defense, Treasury, and Justice, headed by the Attorney-General.

Particularly with these four departments, the President appoints an expert in the area. Even for these four, the President sometimes adds political criteria to the appointments. For instance, Clinton chose to appoint the first woman secretary of state (Madeline Albright), and liked to have the Secretary of Defense to be a friendly Republican (William Cohen) to increase support for his Defense program in Congress. Clinton wanted to appoint the first woman attorney-general (Janet Reno); G.W. Bush appointed Ashcroft attorney-general to maintain support among the Christian right.

For the other eleven cabinet departments, the President looks for an expert in the area, but political criteria may become more important. It is a political necessity to have at least one woman, one African-American, and one Latino in the cabinet. A Democratic candidate, being more tied to support from these three groups, may very well appoint more women and minorities. Some cabinet secretaries are expected to have ties with the constituencies of their departments: Labor, Commerce (business), Agriculture, Veterans, Interior (westerner). Members of these constituencies are likely to be perturbed if one of their own is not appointed. Cabinet

appointments are occasionally payoffs to the President's major supporters, as is the case of Clinton's appointment of William Daley as Secretary of Commerce [Daley also has expertise in the politics of global trade, which made him acceptable to big business].

In 2002 G.W. Bush created a new cabinet department, the Department of Homeland Security. This is now one of the largest departments, containing 179,000 employees, with about 50,000 new employees for the new Transportation Security Agency, but with other agencies transferred out of pre-existing departments (the Customs Bureau, the Border Patrol, the Coast Guard, Treasury agents not related to drug enforcement, and so forth). The first cabinet secretary for this department is Tom Ridge, former governor of Pennsylvania, appointed because of his closeness to the President and his administrative experience as governor of a larger state.

There are about 60 other governmental units *not in any cabinet department!* See p. 140 in text. These other federal governmental bodies include independent regulatory agencies, government corporations (Tennessee Valley Authority), and "independent agencies" (Environmental Protection Agency). Obviously the great number of departments and other organizational units means that there is a flood of information going into the White House from many different sources. This is one reason why the White House staff must be well organized.

Because of conservative political oratory, many persons think that the number of employees of the federal executive branch has been increasing. But in fact, under the first Bush and Clinton the number of federal employees *decreased*. This is largely due to cutbacks in the civilian employment for the Department of Defense, by far the largest department in number of employees (text, page 129). The number of executive branch employees has gone down from 2.1 million at the end of the Reagan Administration to the present number of 1.8 million. Also the general public does not know that more than half of the federal employees in the Executive Branch work for the defense related departments of Defense, Homeland Security, and Veterans (see 129). Undergraduates do not think of working for the federal government for a simple reason—the federal executive branch has done very little hiring in the last ten years. However, this situation will change in a few years, because many federal employees are now reaching retirement age. In addition there is now hiring in areas related to the struggle against terrorism (e.g. the Bureau of Customs, Transportation Security Agency), and perhaps 75, 000 more jobs will be created due to the war against terrorism.

There are about 750,000 postal employees, not included in the above figures. Postal workers are employed by an independent agency under its own board, nominated by the President and confirmed by the Senate. The Post Office is no longer under control of the President, although before 1965 it was a separate cabinet department, containing many political appointees. During the 1800's, all U.S. postal employees were political patronage appointments, controlled by the President and his own political party. This was one reason for enthusiasm and high participation in presidential elections in the latter part of the 1800's; the candidates' supporters were hoping to get post office jobs if their candidate won.

For about 15 years the number of military personnel was constant at 2.2 million; this number is not counted in the above figures. After the end of the Cold War in 1989, the military has been cut

back to 1.4 million personnel. (The text is wrong in referring to a higher number.) Both the first Bush and Clinton Administrations cut back the number of military personnel. Probably under the policies of G.W. Bush, the number of military personnel will need to increase to a small extent. .

Departments are divided into “agencies.” A cabinet level department might have 10 or 12 subdivisions or agencies. For instance, the Department of the Interior is subdivided into the Park Service, Bureau of Land Management, Bureau of Mines, Bureau of Reclamation, and so forth. These agencies are each headed by an assistant secretary of the Interior, or assistant secretary of X in other departments. A department is likely to have eight or ten agencies with assistant secretaries. Other assistant secretaries may be in charge of staff functions, e.g. planning, legal counsel, management.

Presidential Appointees

Most of the workers in the federal government are not political appointees, but have their job under Civil Service, or various other merit oriented systems, such as the Foreign Service or the Federal Bureau of Investigation personnel systems. Still, there are about 1,125 important jobs which are political appointees (see the text 133).

As the text indicates, while patronage appointments have shrunk greatly over time, our President gets to make more political appointments than prime ministers in Western Europe. Note that political appointees change from presidential administration to presidential administration, while merit system civil servants stay in their government jobs when a new President comes to power.

Still the President does not have a massive patronage machine, as compared to 19th century images of Tammany Hall or political machines in big cities. Still the prospect of a top government job is a way for the presidential candidate to recruit major supporters. Members of Congress may have the incentive to move to the Executive Branch, and such congresspersons can be more readily influenced to vote with the President. Note: the Constitution stipulates that one cannot simultaneously serve in Congress and serve in the Executive Branch.

Andrew Jackson introduced patronage in a major way upon his accession to office in 1829. In the 19th century Presidential patronage included postal jobs, tax collecting jobs, customs collectors in the ports, as well as ambassadorships. But the assassination of President Garfield by a rejected job seeker caused the scandal which led to the introduction of non-patronage or civil service jobs in the Pendleton Act of 1883. Civil Service was gradually extended up to the 1930's, although FDR created new patronage jobs without diminishing civil service jobs.

Jimmy Carter introduced the concept of the SES or Senior Executive Service. This is an elite group of 7,000 top civil service administrators, which can be switched from agency to agency, but in return for allowing this; they get bonuses for management success. Civil Service has job tenure; after an initial probation period of 6 months. Civil Service jobs require passing an examination with a relatively high score. Veterans get preference. Federal civil servants are subject to the Hatch Act which requires that they not be active in partisan politics, although they can participate in nonpartisan local elections. This is to shield them from pressures to contribute to political campaigns of their bosses. Occasionally in states and cities government employees are expected to donate 1% of their salary to political campaigns of the party controlling the executive branch. Few people would want the President to command such a political machine.

Presidential Administration

Administration means: Getting good information; making decisions; and then effectively implementing decisions [a decision means little if it is not carried out].

1. White House staff should get the President relatively unbiased and accurate information for decisions. The staff should be able to settle minor disputes among departments, so that the President can have the time to consider the more important decisions.
2. Effective use of OMB is important. The head of OMB is a key appointment. This must be a top grade intellect and administrator; it is not a job for a media star. The OMB is the President's day-to-day agent in the administration of the executive branch. The OMB coordinates the budget requests of the executive departments and independent agencies with the general guidelines established by the President and his advisers. In coordinating requests for money, the OMB is also making judgments about the programs of the various agencies in the executive branch. The OMB prepares memos for the White House about program alternatives. The OMB also has auditors to watch the expenditures of the departments and agencies to make sure they follow the rules of the budget. The OMB also seeks to coordinate programs among departments—the Dept. of Agriculture wants pesticides to be used, but EPA opposes this, etc. But there are other coordinating agencies, such as the White House staff, or special meetings between departments, or under Reagan, institutionalized cabinet councils, that is regular meetings among a particular set of departments, but not among the cabinet as a whole.
3. The President should not rely too much on his own personal staff and ignore the relevant cabinet departments. This may seem trivial, but Nixon at some point stopped trusting some of his Cabinet officers, even though he had appointed them. It has been argued that Nixon shut off too much information by relying on his inner circle. Andrew Jackson was also criticized for this, and was criticized for having a “kitchen cabinet” [the real cabinet being his friends, some not in the government].
4. The President needs to learn how to delegate lower priority decisions and to rely on advisers for much of the necessary information. Carter and Hoover had a problem in spending too much time considering details of issues. But a president should spend more time than Reagan did in studying issues. For instance, Reagan did not know that most of the Soviet missiles were ground based, rather than submarine based, until after he had been in office for two years. Lacking information, he supported negotiation positions on missile reductions that led the Soviets to doubt U.S. seriousness on the matter. Presidents now are aware of the Carter and Reagan extremes, and try to learn the issues but to avoid being trapped in details. The first Bush delegated too much power to his two-year chief-of-staff, John Sununu, and in the first few months of 1992, ignored advice about his weakening political position which led to his electoral defeat. But the first Bush was a genuine foreign policy expert on his own. Clinton sometimes spent too much time studying details as he actually enjoyed studying policy. President G.W. may have a good balance between the extremes, but I think he applies fixed assumptions too much (on tax cuts, on regulating big business.)

5. The President needs to be concerned about personnel issues. There needs to be a personnel office in the White House to give advice about appointments at the assistant secretary of state and lower policymaking levels. The incoming president needs to appoint transition teams, committees of advisers who make reports about potential administration policies in the various areas (defense, trade, environment, etc.) and who will also make lists of potential presidential appointees in the various areas.

6. Presidential team concept. The President may have an ideology or perhaps a partial ideology, such as environmentalism or deregulation. Then the President can appoint assistant secretaries who share this ideology and who will carry it out on issues not important enough to go to the White House. The assistant secretaries in the administration may feel a solidarity around the ideology and its applications. Reagan favored deregulation of market and business activities and his presidential team would carry out this concept. Carter was an environmentalist and favored the appointment of environmentalists and consumer defenders to assistant secretary jobs, and they experienced a solidarity around public interest defense ideology.

G.W. Bush appointments resemble Reagan appointments in supporting the deregulation of business, including relaxation of governmental restraints on environmental use.

7. Inspectors General. Carter instituted the procedure of establishing an office within each cabinet department to monitor administrative problems in that department. The inspector general of a department will have some clout if they are backed by the OMB.

Carter is sometimes portrayed as inept, but he had good ideas about executive branch administration: SES, presidential teams, inspectors general.

8. The President does not have much time to deal with civil service issues, but some of the leading presidential advisers should monitor civil service policy. For good administration, one must keep the most successful civil service executives within the government. They are capable of saving the taxpayers billions a year in making government more efficient. The President should keep up the morale of top civil servant executives, such as by maintaining the SES and giving bonuses for good management and practices that save taxpayer money. For political reasons Reagan constantly criticized bureaucrats, thereby lowering the morale of federal employees. The first Bush then turned this around and made a point of praising dedicated civil servants. Civil service morale is not a political issue since then, although morale must be continually maintained by the administration.

Efficiency can be improved in these ways: giving merit bonuses; looking for talented people at the middle level of government and enhancing their careers; paying middle level employees to go back to school to develop new skills (the military does this regularly); switching managers from one job to another to broaden their experience and giving them background to act as top level managers.

9. A generation ago politicians campaigning for office would sometimes advocate the application of the latest business management theory to government, especially schemes for quantitative measuring of efficiency. However, the goals of business are more streamlined than the goals of government, and ideas such as justice or equal treatment are not readily subject to

quantitative measure. The last generation of politicians seemed to have dropped the advocacy of business management theories, a practice of the Carter-Reagan era.

10. The President must be aware of administrative issues. An awareness of administrative issues such as the above will make a President more effective in leading the government. Being a state governor is likely to be good preparation in Administration, better than being a Senator. [On the other hand a Senator may have experience in foreign policy and defense issues.]
(Presidential Administration: general problems)

1. Inflexible adherence to Standard Operating Procedures. (SOPs)

Most organizations are built around standard operating procedures. The Navy is a good example of this. In the Cuban missile crisis, the Navy was ordered by Kennedy to change its SOPs for operating a naval blockade, but this proved to be impossible to carry through. The officers found it psychologically impossible to change their SOPs, even when directed to do so by the President.

The Soviets used their own SOPs to construct the missile bases. They used the same layout patterns as they did for bases in the USSR. This made it easy for the US to identify the construction as that of missile bases.

The effect of SOPs in the Cuban missile crises was described by Kennedy Public Administration School dean Graham Allison in the classic *The Essence of Decision*.

2. On secondary issues, executive branch officials may stall before carrying out a presidential order they do not like. For instance, Carter asked 75 agencies to submit ideas about flood control policy, but only 15 actually did so. The OMB must take control in such instances and get an agency to implement the President's policy.

3. There may be fragmented authority. Agencies may not coordinate actions or share information about important policies. The most famous such issue is that the CIA and FBI did not share information about the activities of possible terrorists before 9-11. A new unit has been set up to coordinate the CIA and FBI. Another problem has been the fragmentation of border control issues regarding drugs and terrorists: the Customs Bureau, the Coast Guard, the Border Control, the ATF agents of Treasury, the FBI. The Bureau of Homeland Security has been established to do this.

The Dept of Agriculture is in constant conflict with the Environmental Protection Agency over agricultural production issues.

The President may initiate major reorganization schemes to improve the situation [Homeland Security, the National Security Council].

One major issue is overlapping and coordination in the gathering of intelligence: the CIA, the Defense Department, the National Aeronautical and Space Administration, the State Dept, etc. An issue is whether Defense should give up power to a new centralized intelligence coordinator, as advocated by the Hamilton-Kean 9-11 commission appointed by Bush.

There is a tendency to expect too much from reorganization schemes; if you bring in new coordinators, they might just add another layer of organization and slow down decision-making.

It is the job of OMB and White House staff, such as the National Security Council, to resolve conflicts among conflicting federal agencies.

4. Iron Triangles tend to form. These are mutually supporting coalitions among interest groups, agency leaders, and congressional committees or subcommittees. They work together and take over a policy even against the wishes of the President. For instance, construction companies, the Army Corps of Engineers, and congresspersons on public works committees may get together to support new expenditures for dams, harbors, canals which the President does not want. But the congresspersons, the lobbyists, and the government officials get support for the pork-barrel projects. The President does not have an item veto against such projects, so he reluctantly signs an omnibus bill which includes them.

The three entities—interest groups, the government agency, and the congressional committee—are a three sided group, called an “iron triangle” by many persons.

In theory the President can defeat any single iron triangle, but there are many iron triangles, and the President cannot defeat them all. Furthermore, a President saves his political clout for the top issues in his perspective, and will back off from challenging powerful iron triangles such as the milk lobby or the Arizona water lobby. Presidents would not challenge Jamie Whitten, chair of the House Appropriations committee, in his desires to spend large sums for public works projects in his home state of Mississippi. Presidents do not challenge Senator Ted Stevens, known as “Uncle Ted” in his home state of Alaska, who initiates many federal construction projects in Alaska through his position as Chair of the Senate Appropriations Committee.

Other examples: the milk lobby defeated President Reagan; the Arizona water lobby defeated President Carter.

5. Presidential tools. The President has much influence over agency budgets, although sometimes Congress will protect an agency’s spending level from cuts by the President. Therefore, a call from the White House staff, or concern from the OMB does have a lot of clout. But as noted administrators may stall and try to find ways to evade presidential control seen as problematical.

Recent Republican presidents have given the authority to OMB to approve or veto regulations to be issued by government agencies. This is a major centralization of power to control actions by executive agencies. The federal government may issue 50,000 pages or regulations per year. A “regulation” defines what a congressional law means in practice: if a wetland environmental law is passed, regulations may more clearly define “wetland,” etc.

Domestic Policymaking: Presidential Initiatives

Under the 19th Century Whig theory of government, Congress would make the most policy initiatives, but now most Americans expect the President to do this. But there was a brief period in 1969-1975, when Nixon and Ford were presidents, and Congress was controlled by the Democrats, when Congress took most of the initiative in starting new policies in the environmental, women’s rights, and campaign reform legislation that the President really did not want and reluctantly agreed to sign. But this period was the exception in the last 50 years.

It is very difficult to generalize about how the President's program is initiated because this varies with the style of the different presidents. Some of the major sources of the President's program are:

1. The three White House policy councils: National Security Council, the Domestic Policy Council, and the Economic Council. The latter two consist of White Houses staff; the NSC has a committee of the top national security organization leaders.

2. National security policy comes from the Departments of Defense, State, and the CIA and is hopefully coordinated in the NSC.

3. Economic policy is heavily influenced by the Department of the Treasury, and by other advisers whose influence varies:

Council of Economic Advisers, Head of the Federal Reserve Bank, the international trade adviser, sometimes the Departments of Commerce and Labor, with coordination through the OMB and the White House Economic Council.

4. The Office of Management and Budget was very important in designing the basic Reagan Administration program of tax cuts and domestic policy cutbacks in 1981. Under any President it has some initiation role as a result of coordinating the departmental policy initiatives. OMB seems to have had more policy significance under Carter, Reagan, and the first Bush, than under Clinton.

5. Committees of the Cabinet or cabinet councils, including a few cabinet secretaries, but not all of them (e.g. Natural Resources, Health & Welfare policy). This was a Reagan favorite, and also used by the first Bush, but not used much by Clinton and apparently not by G.W. Bush.

6. Outside task forces: the President appoints a commission of national leaders and experts in a particular field to study a topic and recommend possible federal government action. These have the title of President's Commission for....Clinton had commissions for balancing the budget or the Kerrey Commission, and to study social security, and to study medicare.

7. Presidential transition teams recommend legislation for the new President's first year.

Various Presidents have different styles: Kennedy, LBJ, and Clinton liked outside commissions. Clinton was famous for his health commission, headed by Hilary, which contained as many as 500 leaders and experts, counting all the subcommittees (see text). Nixon liked to keep policy innovation close to himself, so he gave the greatest role to the White House staff, greater than any other recent President. As his term went on, the Cabinet secretaries tended to be ignored by the Nixon White House. Carter also relied on his White House staff, but not to the extreme of Nixon. Reagan liked Cabinet councils and de-emphasized the White House staff in making initiatives; as noted, OMB set the tone for the whole eight years. The first Bush was in the middle: using White House staff, but less than Carter; using OMB a lot; and using cabinet councils but less than Reagan. Clinton liked commissions and the White House staff, but not OMB so much. Clinton relied heavily on the National Security Council, especially in the second term; Clinton was heavily influenced by Treasury on economic and taxation policy. G.W. Bush does not look to the Treasury Department for major economic advice, at least not to the extent that Clinton did. Clinton put forth the Hilary Commission plan as his health plan, but it was defeated in Congress.

G.W. Bush seems content to let Defense and State argue it out in matters of national security policy. So far the NSA, Condaleeza Rice has not been a strong figure in resolving such issues,

but in October, 2003, Bush gave her more power to deal with the administration of Iraq. G.W. Bush apparently relies a lot on the White House staff and the vice-president to develop domestic policy proposals.

There is no agreement among political scientists about the best way for a President to initiate policy. We do agree that presidents should spend less time on the details of initiatives than Carter, and we agree that they should study issues more than Reagan. Recent controversies about this have been of a lesser degree than about Carter and Reagan: Bush the first seemed to strike a balance except when dictatorial chief-of-staff Sununu distorted the picture, but Sununu did not serve the full term. Clinton sometimes spent too much time studying a single issue, mainly because he loved to learn about issues, but he had a high energy level and had time for other things. G.W. Bush strikes a balance pretty well, although he starts with less information than many presidents. On the other hand, the G.W. national security advisers seem surprised at the problems of administering Iraq and that the weapons of mass destruction have not been found. This indicates some kind of problem in Bush's advising. Also G.W. Bush may have fixed ideas, which he is overly reluctant to change (Saddam and Al Qaeda as collaborators).

One recommendation is that a president mix the sources of policy initiatives. Outside commissions may be a good source of new ideas that come from outside of Washington, D.C. OMB can emphasize the budgetary aspects. Cabinet members bring in a variety of perspectives, but cabinet secretaries are usually biased from the point of view of their own department. The White House staff emphasizes the interest of the president in a policy, but as with Nixon's group, they may lose touch with the overall situation beyond the president.

Office of Management and Budget (OMB)

Everyone agrees that the OMB provides an important coordination role in the policy initiation function. The OMB reviews the new program suggestions a department makes. If they are important, the OMB takes them to the White House. But the OMB will veto a lot of program suggestions if they appear to be inconsistent with the President's program or just too expensive. But it may not be a simple "yes" or "no"; the OMB may discuss an idea with a department and together they may work out an initiative. If blocked by the OMB, a department has the option of appealing to White House staff not on the OMB, such as the domestic policy council.

When Congress passes a bill, the OMB coordinates the President's response. The OMB requests reports from the concerned departments, and then the OMB recommends to the President whether he would sign or veto. The OMB takes a hard line on new expenditures, but the President frequently ignores the OMB's veto recommendations, because the President will also consider political factors.

Thus the OMB performs the central clearance function of developing budgetary and program priorities for the President. The OMB was founded in 1921 at the recommendation of public administration reformers and was known as the Bureau of the Budget until its name was changed around 1970. Another descriptive terms is that the OMB performs the legislative clearance function; it decides which departmental recommendations become part of the President's program to be sent to Congress for consideration.

The OMB since Reagan has performed the regulatory clearance function. In most cases, after departments write regulations, the OMB has to approve them. A law has no force unless the executive branch stipulates regulations which make the law apply in specific ways (e.g. if there is a wetlands preservation act, regulations define specifically what is a “wetland”). The OMB thus may slow down the implementation of a law, or change the interpretation of a law by influencing the regulations under the law. Regulatory clearance centralizes power within the executive branch; it also tends to cut down on the sheer volume of government regulations.

At the very beginning of his term, the President has the most support for whatever program initiatives he wants to send to Congress. It is very difficult for a President to develop a program this fast; this is why, beginning with Reagan, presidents have set up the transition teams between the election and the inauguration day. Besides personnel recommendations, the transition teams also study issues and give advice to the President on program items. The major example is that Reagan delegated a power to propose initiatives to David Stockman (who was appointed OMB head), and Reagan went with Stockman’s proposals for tax cuts, government program cutbacks, and defense increases, which passed within about four months. The second Bush got support for his tax cuts and the “no child left behind” education bill within a few months.

The President and Congress

Presidents normally have a hard time getting their domestic policy program through Congress. The Presidents have less difficulty in getting congressional support for most foreign policy measures and for defense expenditures, although Congress resists president’s foreign aid proposals.

Under the U.S. separation of powers system, the Congress has a separate power base, much of it based on its powers over taxation and appropriations. The President must go to Congress for money. This is part of the Anglo-American tradition in which the power of the executive is limited by the power of the legislature to control the purse strings. This was established in 1215 by the *Magna Carta* in which the English nobility forced King John to give up some of his sovereignty.

Adding to the President’s difficulty, the opposition party may control one or both houses of Congress. Between 1947 and 2005, the President’s party has controlled both houses of Congress only in 11 of the two year intervals, while one or two houses of Congress were controlled by the opposition party in 17 two year intervals. During the first two years of Clinton’s term, the Democrats controlled both houses, but in the last six years of Clinton’s terms, the Republicans controlled both houses. During the first Bush’s presidency, the Democrats controlled both houses of Congress. In the current Bush presidency, at first both houses were controlled by Republicans, but then Jeffords dropped out of the Republican party and voted with the Democrats to get 51 votes in the Senate. But the Democrats lost two Senators in 2002 elections, so in the 2003-2004 Congress, Bush had a majority in both Houses. This has not happened for a Republican president since 1953-1954.

From 1938-1993, on many votes 1/3 of the congresspersons of the President's party voted with the opposition. In history, Southern Democrats were often known as Dixiecrats or "boll weevils" because they were conservatives and voted with Republicans on many issues. During the last 30 years, Southerners have replaced conservative Democrats with conservative Republicans, so that the Dixiecrat phenomenon is now less important. These days, there are sometimes divisions in Congress between "moderate" and conservative Republicans, although this did not deter Reagan from enacting his major legislation of 1981.

During the Clinton years, however, party voting began to show more unity as tensions increased between the Republicans and Democrats in Congress (tensions often over President Clinton). Today in the House of Representatives, partisan votes on key issues are common (meaning that 95% vote with their party). Today Senate votes are often highly partisan, but less so than the House.

In recent times, however, it was possible on a few issues for a President to lose major support in his own party and then need to rely on the opposition party. The recent famous example is the China trade issue, on which only 1/3 of the Democrats in the House supported Clinton, but almost all Republicans voted for the Clinton position on free trade. But in the current highly partisan atmosphere under G.W. Bush, this has not happened.

And to make things still more difficult, the President has little power to intervene in primaries in his own party to campaign against his opponents in the party. This was shown in 1938, when powerful FDR ran a few of his own candidates against Dixiecrats who voted against FDR endorsed legislation, but the Dixiecrats all won. Ronald Reagan made a big point of saying that he accepted the legitimacy of all elected Republican congresspersons, even those much more liberal than he. Karl Rove and George W. Bush were active in recruiting candidates for open positions, but this is different from campaigning against an incumbent in the Republican party.

However, presidential programs do pass Congress. There are times when a President has a strong majority in Congress and is able to get backing for many program items. Sometimes this is called a presidential mandate, when it is thought the public wants a program, the President has one, and Congress is strongly supportive. This occurred in 1933-36 with FDR and the New Deal. It also occurred under LBJ in 1964-66 with "The Great Society." Very significant legislation passed during these periods. FDR: social security, progressive taxes, public works programs for the unemployed, agricultural assistance program, general welfare program, minimum wage, unemployment assistance, regulation of banking and security industries, right to union organization, child labor and overtime laws, and others. LBJ: civil rights bills, medicare, aid to higher education and scholarships and loans to students, poverty program, food stamps, aid to cities, expansion of immigration, Section 8 housing program, etc.

Ronald Reagan in 1981 was another mandate year, even though the Democrats had a majority in the House of Representatives. Reagan got through his major tax cut, plus cuts in government welfare programs, plus increases in defense spending. This happened because Democrats from more conservative constituencies voted with Reagan in light of his popularity in their districts. Such Democrats feared to be opposed by Reagan in the next House elections.

During 1970-1994, the President faced another difficulty—power in Congress was usually very decentralized. In the 1950's Eisenhower was able to work with strong leaders in both the Senate (LBJ) and in the House (Rayburn of Texas). Ike would make budget and other deals with LBJ and Rayburn who had the power to enact the deal. But after these two leaders left Congress, for a while there were no other leaders with equivalent power. During 1970-94, the Senate and House leadership could not control committee chairs or even subcommittee chairs. On important and complex bills, the presidential team may have needed to negotiate with as many as 20-30 different powerful members of Congress, rather than with just a few leaders.

The recent term of Newt Gingrich as the Speaker of the House indicated a change towards centralization of power in the House, which can make the President's negotiation task more simple. Especially at the beginning of his period as speaker (1995-98), Gingrich concentrated great authority in his own hands, and was the most powerful speaker since about 1910, when congressmen ended the great control then held by the Speaker. In general, this made life more difficult for Clinton, but it is true that sometimes it was convenient for Clinton to negotiate with Gingrich, who could make an agreement stick.

During the George W. Bush administration, the Republican House leadership of DeLay & Hastert has exercised strong leadership on issues deemed important to the Republicans' election chances. President Bush can get his will enforced by DeLay and Hastert in the House on priority issues. But it is not clear the House leadership will always support G.W.; in fact DeLay-Hastert rebelled on minor issues such as certain expansions of the Patriot Act and expansion of the power of media conglomerates to control outlets in major cities. There is more independence among Senate Republicans in regard to the goals of the President; there are several moderate Republicans who are swing voters on the President's issues, and who have leveraged power from this (Spector, Collins, Snowe, Chafee, Hagel, McCain).

The President has staff who work as legislative liaison. The President has his own lobbying operation in the White House to contact legislators to support the President's bills. Carter had a big problem with this because he put staff from Georgia in the legislative liaison function, and they did not understand the fine points of Congress. Like Carter, Reagan called himself a Washington outsider, but he appointed Washington long-time insiders as his lobbyists, even though some had supported Republican rivals. Presidents have since followed Reagan's example in this regard.

Most members of Congress vote with the President of their party most of the time. But this is not enough, especially if the presidential party is a minority in Congress. What can the President offer members to get their support?

1. Material benefits and tax breaks for the congressional district. These are sometimes called "pork barrel." This includes public works projects or grant money spent in the member's district or state.

Tax breaks are a different type of material benefit. In negotiating tax bills, a President may need to give special tax breaks to get a member's vote, or the votes of groups of members. For

example, the OMB/Treasury/President might back flexible depreciation accounting for the oil industry to get votes from Texas. When Chicago's Dan Rostenkowski was chair of the House Ways and Means Committee, the Reagan administration was forced to agree to special bond funding rules to help finance U.S. Cellular field, the Navy Pier rehab, and Presidential Towers.

2. The President may endorse a member's pet legislation, particularly if it is of a symbolic nature, such as honoring particular ethnic groups in a member's district. This might actually be handled by the White House staff and the legislative liaison, e.g. naming a federal building after Casimir Pulaski or Ralph Metcalfe, Jr.

3. The President can reward his favorite congresspersons by campaigning for their re-election, perhaps by speaking a fund raising dinner. This technique was first applied successfully by G.W. Bush, who campaigned for Republican congressional candidates in 2002 with apparent success. Analysts said that this was because Bush increased turnout of latent Republican voters, by getting publicity on local TV news and so forth. It was reported that in 2002, the off-year elections, Bush raised 140 million dollars for Republican candidates, including governors. This is a surprise! Neither FDR nor Ronald Reagan had much success at such campaigning.

4. Help for constituents. The White House staff can make phone calls to executive agencies to expedite business with a congressperson's constituents. Immigration issues are one example; small business loans are another; social security issues are a third.

5. Attention to the congressperson. Everyone is impressed when they get attention from the President, even if they don't like the President. A political President will make phone calls to congresspersons to get his bills passed; he will meet with some in person or in groups, or for breakfast at the White House.

6. Attention as everyday honors. Invitations to White House social affairs are prized. Pictures of a congressperson with the President impress the constituents, notes in the handwriting of the President, and so forth. It may seem irrational but these can be effective lobbying tools for the President.

Control of Congress Since Eisenhower

House

1953-54 Republicans

1955-1994 Democrats: Rayburn, McCormick, Albert, O'Neill, Wright, Foley

1995- Republicans: Gingrich 95-98; Hastert, 99-

Senate

1953-54 Republicans: Taft, Knowland

1955-80 Democrats: LBJ, Mansfield, R. Byrd

1981-86 Republicans: Howard Baker, Robert Dole

1987-94 Democrats: Robert Byrd, George Mitchell

1995-2001 Republicans: Dole, Trent Lott

2001-02 Democrats: Tom Daschle
2003– Republicans: William Frist

Presidents

Eisenhower	Democratic congress six of eight years.
Kennedy	His party in control.
LBJ	His party in control.
Nixon	Other party in control of Congress.
Ford	Other party in control.
Carter	His party in control.
Reagan	His party has Senate for six of eight years. Other party has House for eight years.
Bush: 41	Other party in control.
Clinton	Dems in control for first two years; Reps control both houses for last six years.
Bush:43	His party in control, except for Senate for 19 months in 2001-02.

George W. Bush had various relationships with Congress. First he adroitly persuaded conservative Democrats to vote for his tax cut measure. There was bipartisan support for his education plan after vouchers were removed from the plan. The rest of his program got stuck in Congress. But after 9-11 Congress followed Bush's leadership on war on terrorism issues. On the other hand, Bush's legislative liaison blundered in offending Senator Jeffords, causing the switch to the Democrats in the Senate for 18 months. The Democrats then proceeded to veto most of the president's domestic legislation and some of the judicial appointments.

The President and Congress (recent history)

In the first modern presidency after 1933, FDR worked well with Congress during his first term, because he had big majorities in both houses, and he was seen as the national leader during the depression emergency. During his second term, however, FDR had difficulty with Congress because Southern conservative Democrats would often vote with Republicans on issues such as the expansion of the number of justices on the Supreme Court. FDR was also opposed by a majority in Congress on the war preparedness issue, such as giving aid to the British or instituting the draft in the two years preceding Pearl Harbor (Dec. 1941). Congress was supportive of the President during World War II (1941-45).

After the war, the voters wanted a change, and during the Truman Administration, Republicans normally controlled one or both houses of Congress. These were times of sharp conflict between the President and Congress, and Truman's main re-election argument was that the problems of the country were mainly due to the Republican controlled Congress, a "do-nothing" Congress. Truman was able, however, to get support from the Republicans on major foreign policy issues. The Republican foreign policy leader was Senator Vandenberg of Michigan, and Truman and Vandenberg proclaimed the "bipartisan foreign policy" and that "partisan conflict stops at the water's edge."

Eisenhower had a Republican controlled Congress for his first two years, but for the next six years Democrats controlled. During that time Eisenhower negotiated with the powerful

Democrat leader in the Senate, LBJ, and the powerful Democrat Speaker Sam Rayburn. There was not much domestic legislation that Eisenhower wanted except to balance the budget; civil rights legislation had to wait until the Kennedy Administration. The Democratic leadership was middle of the road, not liberal, so worked well with the President. LBJ became a liberal when he was President.

Kennedy had a difficult time with Congress during his first year, because the liberal President needed to maneuver in Congress to break the power of the conservative Dixiecrat Democrats, who were against civil rights legislation. Kennedy was achieving more success with Congress by the time of his assassination. LBJ had very successful relationships with Congress in his first three years, as there was a Democratic landslide in the 1964 congressional elections. LBJ was able to pass the Kennedy legislation and new legislation of his own. This was the time of a mandate known as "The Great Society." But in 1967 and 1968 the Republicans had regained many congressional seats and LBJ had much more difficulty with Congress, due to the Vietnam War (starting around January 1965). The Democratic leadership in Congress backed the War and during 1967-68 prevented discussion of the war in Congress.

Nixon had bad relationships with Congress, controlled by Democrats hostile to Nixon during his 6 ½ years in office. The Democrats in Congress initiated and passed a great deal of legislation—regulating business in the environment, civil rights, women's rights, and other areas—which Nixon did not choose to veto, fearing his popularity would decline if he vetoed. Hostile to Congress, during this time Nixon tried the tactic of impoundment of funds, refusing to spend congressional appropriation he thought unnecessary. But the Supreme Court in 1973 ruled impoundment of funds to be unconstitutional.

Ford also had difficult relations with Congress, controlled by Democrats, although without the degree of personal hostility as under Nixon. Ford was active in vetoing legislation with 66 vetoes and 12 overrides in 30 months of his presidency.

Carter had more problems with Congress than might have been expected for a Democratic president with a strong Democrat majority in both houses. Carter's legislative staff was not adequate and Carter himself had difficulty getting public support or measures he favored.

In 1981 Reagan got effective congressional backing. He had a majority in the Senate, led by Senator Howard Baker, who cooperated with Reagan. Democrat "gypsy moths" in the House flitted over to support Reagan. However, after the 1981 honeymoon period, Reagan had considerable difficulty with Congress, which buried a lot of Reagan's proposals (Reagan wanted to amend civil rights bills, tax breaks for private school tuitions, cutbacks on environmental regulation, more spending for anti-missile missiles, a new federalism program to delegate federal power to the states). In the last two years of eight, the Democrats regained the majority in the Senate.

The first Bush did not have good relations with Congress, both houses controlled by Democrats, although Congress did support Bush on some important measures, such as voting support for the Gulf War in 1991, and voting for tax increases and other items which slowed the trend to higher budget deficits. Bush wanted to cut capital gains taxes, but was defeated. He was defeated on a measure to limit job discrimination lawsuits and lost on a veto override, when many Republicans supported limits on price increases for cable television.

Clinton is famous for his fights with Congress, when controlled by Republicans. As the text points out on 175-180, Clinton had a mixed record in his first two years, as his health plan was defeated, but his tax plan and economic measures were passed. During the fall of 1995, Clinton had the famous standoff with the Republicans concerning passing the budget and the shutdown of some agencies in the federal government. The Republicans lost some popular support, so that during 1996 Clinton and the Republicans, now backing down, were able to negotiate to pass important legislation.

Of course with the development of the impeachment case against Clinton by the Republicans in the fall of 1998, relationships between the President and Congress fell to one of the lows in the entire span of U.S. history. With the defeat of impeachment, a period of bickering ensued as both sides sought to embarrass the other in order to reap persuasive campaign arguments in 2000.

This summary illustrates the difficulties of the President in dealing with Congress.

VETO

This is a major source of presidential power in dealing with Congress. The President normally signs bills; if he opposes them, he sends the bill back to Congress with his explanation, the veto message (probably drafted by OMB).

[Oddly, a law goes into effect without the President's signature, although the President usually actually signs the bill. But if Congress goes home in the ten day period following the passage of a bill, and the President does not actually sign or veto it, the bill does NOT become a law. This is known as the "pocket veto," the image being the President put the bill in his pocket and left it there for ten days while Congress went home.]

It takes **2/3 of the House and the Senate** to override the presidential veto. This is very difficult to get. The first Bush had an override only once in four years, Clinton was overridden twice in eight years. G.W. Bush has never vetoed a major bill, so has not been overridden. See table, p. 151.

The pocket veto is significant because presidents may use it to avoid writing a veto message which might alienate a sector of the public. The frequency of the pocket veto varies: Reagan, 39; Bush the first 16; Clinton only one. G.W. has not pocket vetoed any major bill.

The veto is more important in its use as a threat, than in its actual deployment. Presidents can threaten to veto to force Congress to back down. To override a veto is very difficult, since it requires 2/3 in both Houses. Under the first Bush, Democrats had a majority in Congress and wanted to pass appropriations bills higher than Bush wanted. So the president would threaten to veto such bills and the Democrats would negotiate. But under the first Bush, the majority Democrats passed some bills which Bush opposed and vetoed, but then the Democrats used that as a campaign issue (one bill was a middle class tax-cut which Bush the first opposed as adding to the deficit).

The item veto was a reform proposal which would allow the President to veto part of a bill, while accepting the rest of the bill. Normally, advocates of this reform would apply it to money items, not all laws. The President could thereby item veto some money items in an authorization or appropriations or taxation measure, but the President would be able to accept other measures in the bill. Supporters of the item veto believe this measure would cut down on unneeded government spending, because without an item veto, congresspersons follow the strategy of burying a spending item the President opposes within some package bill or omnibus bill, forcing the President to choose whether to veto the whole measure, most of which he supports, in order to get rid of a few items he opposes. For instance, suppose the President rejects the “widget gun” which is manufactured by the Widget Company in Congressman Jones’ district. The congressman then may try to insert the widget gun in the defense authorization bill, forcing the President to veto the whole bill to get rid of this one item. With the item veto, the President could just veto the one item he didn’t like.

The item veto was part of Gingrich’s Contract with America, one of the few parts of the Contract that Clinton could accept. It was enacted into law in 1996, Clinton used it sparingly and in a nonpartisan way, but in 1998 the Supreme Court ruled the item veto unconstitutional, on the grounds the President was infringing on the legislative authority of Congress in using the item veto (see Pfiffner, 152). Thus the President does not have the item veto, but most state governors have it, since they are not controlled by the U.S. Constitution in this respect. The governor of Illinois has an item veto, which can be overridden by a 3/5 vote in both legislative houses.

The filibuster is a sort of a veto process within the Senate itself. The House has something like what are considered to be normal rules for debate and voting; for instance, there are time periods allocated for debate and then a vote must take place. But the Senate does not have such normal rules. There is a tradition that each individual Senator is a “little prince” and respect for this individualism must apply in the Senate. Hence each Senator has the privilege of speaking for as long as he/she wants and such speaking can be terminated only by a special procedure. Therefore a single Senator can threaten to speak without limit, thereby tying up the Senate business. Or a group of Senators can threaten to work together to speak without limit, thereby blocking any further action of the Senate unless the threatening bill is dropped. The Senate filibuster was the technique whereby major civil rights legislation for blacks was blocked from 1877-1964, as Southern Senators would threaten to filibuster any significant measure.

However, the traditional rules of the Senate provide for a procedure to end the filibuster—the cloture vote. Historically the cloture vote was 2/3 of a quorum and voting; a measure very difficult to get if 22 Southern Senators opposed cloture. However, in 1974 (yr?) the cloture vote was reduced to 3/5 of those voting in a quorum, ordinarily considered to be 60 Senators.

Starting in the middle 1980’s, minorities in the Senate became more active in threatening to filibuster, requiring 60 votes to shut them up. By the 1990’s, in most cases the Senate could not pass a controversial measure unless it had 60 votes to shut off the filibuster. Thus in the last 20 years, the Senate has in effect decided that 60% is needed to pass legislation. For instance, the McCain-Feingold campaign finance act had 51 votes about eight years before it got the 60 votes needed to pass in 2002. The House still operates with the simple plurality voting, and major bills sometimes pass the House by only one or less than five votes.

In 2003-2004, the Democrats had 49 Senators, and therefore could block the President's legislation and controversial judicial nominations unless 9 Democrats voted with the President. In 2005-2006 the Democrats will have only 45 Senators, but this still creates a problem on partisan bills, since Bush would need the support of five Democrats in the Senate to get the 60 votes to end a filibuster.

President and Congress: Divided Government

When there is divided government, the President and the opposition party in Congress may work to blame one another for the country's difficulties and the failure to pass legislation to remedy such difficulties. The hope is that swing voters will blame one of the political parties for a problem, enabling the other to win electoral victories. For instance, when Clinton vetoed the Republican appropriations bills in 1995, both parties blamed the other for the resultant shutdown of some government agencies which ran out of money. Most swing voters eventually sided with Clinton and blamed the Republicans, helping Clinton to get reelected the next year in 1996. During election year 2000, Republicans and Democrats were both trying to shift blame on the issues of regulating HMO's, high prescription drug prices, and inaction on gun control. Congress may go so far as to pass a measure they know the President will veto, so that they can blame him for some problem. For instance, Democrats passed a tax cut that the first Bush vetoed in 1991, so the Democrats could use that as an electoral issue.

On the other hand, this form of democratic chaos is not so bad as it first appears. Research and experience shows that both parties also worry about being blamed for the lack of legislation that the swing voters want. Therefore, as in 1996, it is common in our system of government for both parties to compromise and pass legislation, partly to avoid blame for not passing it. Everyone knows that President Truman's main reelection argument was voters should support Democrat Truman in his struggle against "the do-nothing 80th Congress." Congresspersons in close elections do not want to be assailed as part of "a do-nothing Congress."

Personal relations between the President and Congress can have an effect on legislative outcomes. It was hard for many to believe, but President Reagan and archetypical Democratic "pol" Speaker Tip O'Neal were friends, and negotiated big differences over social security and U.S. troops in Lebanon. Eisenhower also was on good terms with Democratic congressional leaders Sam Rayburn and Lyndon Johnson. However, with increasing acrimony in Washington, personal relations have been cool. The first Bush ran a lot of nasty commercials in 1988 (more than any other Republican candidate since television began), which hurt his relationships with congressmen, although Bush and Danny Rostenkowski (House tax committee chair) got along well. Clinton and most of the Republican congressional leaders detested one another, although they can sometimes control their emotions and work together, as on the China trade bill. Long time observers of politics often deplore the decline of good personal relationships in Washington; these are important during times of divided government. It appears, however, that for most of the G.W. Bush Administration, Republicans will control both houses and that there will not be divided government, except for the 19 months the Democrats controlled the Senate (2001-02).

Divided government is probably not as big a problem as it seems at first. Since World War II, political scientists and reformers have sometimes called for constitutional amendments to

provide for more unified government. For instance, some support the idea of four year terms for members on the House of Representatives, who would be elected presidential election years. The theory is that the winning president would sweep in a house of his own party, thereby limiting divided government.

However, research by a leading political scientists, David Mayhew, shows that during the years 1947-1990, there was no correlation between unified government and passing a greater number of important legislative bills. Mayhew came up with a list of 267 of the most significant laws passed in that 44 year period, and there was no relationship between passage and unified government. This was a surprise. Still, remember that much legislation passed under Reagan, and that was a time of divided government. Mayhew makes the argument that to avoid embarrassment and blame, the parties under divided government will eventually compromise to pass measures that swing voters want.

Limited Influence Resources

The President has limited influence resources. As G.W. Bush says, the 2004 election gives him political capital which he will spend. But the metaphor indicates that G.W. does not have unlimited political capital. To be successful, a President must spend his political capital on priority issues, not waste it on fights on secondary issues. Congress can block even a powerful president on some domestic issues. For instance Reagan was powerful and he wanted to have a free market for the price of milk, currently set by the federal government. But the dairy farmers are among the best organized groups and they control several Senators on this issue. So Reagan had to back off. G.W. Bush believes in the free market, but he is not likely to try to change this, although the Democrats made this a minor campaign issue.

President Carter did not believe the taxpayers should spend a billion dollars to transport water from Phoenix to Tucson to aid in the development of Tucson. But the Arizona congressional delegation controlled a committee chairmanship and Carter had to back down. Reagan concluded that this was a secondary priority and did not bring up the issue.

This is where “iron triangles” come in [see earlier lecture notes]. The iron triangle is a coalition of a government agency, a congressional committee and an interest group to promote some policy. The triangle controls the relevant decision-making authority in Congress and so the triangle gets its way (government set milk prices, water for Tucson). The President can defeat the iron triangle if he wants to spend a lot of political resources, “calling in his chips” for the game. But a President is not likely to challenge a strong iron triangle because this risks a political defeat. The public may challenge a triangle through citizens lobbies (e.g. environmentalists) and through litigation if government regulations are being flouted. Sometimes this works.

Even the most powerful Presidents will be sometimes defeated in Congress on secondary domestic issues, except during the rare mandate periods. The supporters of the President should not expect that the President can always get his way on domestic issues.

Presidential Popularity

High popularity is important for a President's reelection chances, or it may affect a succeeding candidate in the President's party, such as Reagan-Bush 41, or Clinton-Gore. High popularity helps a President get his bills passed through Congress. Popular presidents get an aura of prestige; an unpopular president come disrespected in Congress and the media. Popular presidents get clout with Congress; some of the members worry that if they vote against a popular President, their constituents will become resentful and vote for a future electoral challenger for Congress. For instance, many Democrats feared to vote against Reagan in 1981 due to his supposed great popularity.

One can measure presidential popularity in national random sample polls. The percent who believe a President is doing a good job is regularly measured and can serve as a variable in an analysis of the presidency. Unfortunately analysis of political events is complicated, and other variables may come into play besides presidential popularity (such as the number of his party in both houses of Congress).

A President usually starts a term with a high degree of popularity, which goes down after the first year. Popular presidents Eisenhower, Reagan, and Clinton were able to restore their popularity after the second year drop-off.

Among the average member of the public, there is a tendency to support a new President as an expression of loyalty to the leader of the nation, even though the new President was not supported by this person in the election. But with the passage of time, this feeling of loyalty is sometimes eclipsed by disappointment; at the state of the economy, with the President's personality and way of conducting himself, and so forth.

The American President is a living symbol of the nation; the President is the chief of state. Parliamentary countries separate the two functions of national political leader and symbol of the nation. A royal family, or sometimes a nonpolitical "president," serves the symbolic functions of greeting important foreign visitors, presiding over national holiday events, presiding over ceremonies to honor or reward citizens and groups, and so forth. But in the U.S. the President performs these functions, although some of them can be delegated to the vice-president. These do take quite a bit of the President's time. On the other hand, serving as a symbol for the entire nation is an important basis for presidential popularity, which is demonstrated in the rally effects during the first year of the term and during foreign affairs crises. Eisenhower, Kennedy, and Reagan were able to turn this symbolic leadership function to good effect for their popularity. The public saw these presidents as appropriate symbols for the country as a whole.

Rally effects: The public often rallies behind a President during major international crises. This might be defined as an international situation which gets top television news coverage for several days running and in which the U.S. is being challenged by some opponent. Examples include the Bay of Pigs invasion of Cuba, the Grenada and Panama attacks by the U.S., the Gulf War of 1991, and the taking of U.S. hostages by Iran. The recent example was public support for Bush after 9-11. After all of these events, presidential popularity went up. Contrary to what many persons thought before national polling, in such crises, even if the U.S. is defeated or humiliated, presidential popularity still goes up, at least for a while. This even happened for Kennedy after the Bay of Pigs invasion and for Carter after the hostage taking. The public for a while rallies behind the President as the symbol of the U.S. Senator Ted Kennedy did not understand this, and his criticism of Carter's foreign policy during the beginning of the hostage

crises proved unpopular with Democratic primary voters, as Ted Kennedy lost most of the early primaries, before winning a number of later primaries.

Qualifications of the rally effect: on short lived issues, like Grenada or Panama, the public forgets in a few weeks and presidential popularity drops. In the Iranian hostage taking case, Carter's popularity was up for four months, but after that it dropped as the public began to criticize Carter for failure, an issue used successfully by Reagan in defeating Carter. G.W. Bush's popularity went way up after 9-11, but a few months later began to drop, and it has zig-zagged since then. For some of the lesser international crises, the rally effect does not happen and the rally effect is hard to predict in such cases.

Losing popularity: Major economic difficulties are very important, as they are in presidential elections. Economics was the main reason for Carter's defeat (more than Iran); caused a sharp drop in Reagan's popularity in 1982 before the economy recovered from a recession; and was the main reason for Bush-41's defeat in 1992.

Truman's popularity dropped because of Korea and LBJ's popularity dropped because of Vietnam. These were wars in which the U.S. was not attacked, and public support for them gradually dropped, pretty much with the increase of American casualties over the years.

Scandals cause a drop in popularity: Nixon and Watergate, and Reagan suffered a temporary drop with the Iran-Contra scandal. With the Lewinsky scandal, Clinton's popularity split into two factors: he was still high in doing a good job as president, but he was low in terms of the public's esteem for his personality.

Some presidents have been able to restore their popularity after it went down. The first Bush's popularity actually went up after the first year, then it went down (recession), then back up (war), and then down again (economic issues). Clinton's popularity went down during his first two years, but he managed to bring it back up in the last part of his third year. During the impeachment investigation, Clinton's was rated pretty high for job effectiveness, but low for personal behavior. G.W. Bush seemed to be under the general rule of slipping popularity, but after 9/11 his popularity soared due to the rally effect and effective leadership. During 2002 Bush's popularity dropped somewhat but was still relatively high. G.W.'s popularity decreased in September 2003 after the announcement of the need to spend \$87 billion for Iraq.

Clinton's public image was unusual. After the fall of 1995 he got relatively high popularity ratings. But as the Lewinsky scandal broke, his ratings broke out into two factors. He got a relatively high rating for competence in the Presidency. But he got a relatively low rating for being esteemed as a person; about 25% of the public thought of Clinton as an effective President, but not such a good person. With this in mind, Clinton's poll ratings did not go down as the impeachment process continued, and the majority of the public considered that Clinton deserved criticism for his personal demeanor, but should not be removed from office as he was doing a good job as President. [In practice this meant that Clinton got credit for the booming economy.]

There is an intangible personality element in presidential popularity. Eisenhower, Reagan, and Clinton, were able to suffer popularity losses, but then to restore their popularity. Much of this regain of popularity was due to the reoccurrence of economic prosperity. But there is something to the idea of the "Teflon" effect—criticisms did not stick to presidents Reagan and Eisenhower to

the extent that they stuck to Bush or Carter, for instance. In Clinton's case, criticisms stuck to him, but many voters decided that they were not relevant to politics and voted for him anyway.

Clinton's ratings: a somewhat different story from other Presidents, because Clinton did not have a honeymoon period in early 1993, after his first election. His popularity was high before the inauguration, but the first few months of his presidency were beset by a number of issues: gays in the military, problems in his nominations for attorney-general as the candidates had forgot to pay taxes for household employees, the confusion and controversy surrounding his designation of the Hilary commission for health care policy, etc. But oddly, in the fall of 1995, his popularity climbed as the moderate public sided with Clinton in the battle of shutting down the government. After 1995 his popularity stayed relatively high, mostly due to the prosperous economy. As noted, during the impeachment process, the moderate public lost faith in Clinton as a person, but retained confidence in him as a political leader.

The President and the Media

Everyone on the White House staff is concerned with building a President's popularity. Even if the President is not running for re-election, a popular President finds it easier to get his way with Congress and to influence the public as a whole. No one likes being unpopular, and some Presidents were actually very sensitive and angered by criticism (LBJ, Nixon).

Of course there is a Whites House press office with the presidential press secretary. James Brady (Reagan), George Stephanopolous (Clinton), and Karen Hughes (G.W. Bush) are well remembered by television viewers. Four days a week the press secretary meets with the media. The press secretary must be very familiar with the President's positions, including understanding what the President does not want to discuss. The press secretary thus attends many meetings of the White House staff and frequently meets with the President. The press secretary is backed by his own staff of media experts, writers, and possibly former advertising personnel work work to make the president look good on the media. Presidential appearances are scheduled with an eye to positive media image. For television pictures, background "sets" for the President are carefully planned: in the Oval office, in the White House Rose Garden, against the Statue of Liberty, at the site of the 9-11 disaster, and the mistaken idea of flying a plane onto a an aircraft carrier. Presidential media appearances are calculated with specific political goals: if he is seeking the Hispanic vote, an appearance at some Hispanic event, and so forth; to reinforce his image as a statesman, appropriate coverage for the annual UN speech plus frequent media shots of meeting with foreign leaders, especially at the White House, and so forth. This may go too far, as in the shot of Bush-41 going to the market and not knowing about bar codes [intended to show Bush-41 as a regular guy, an image weakness, but actually showed the opposite]. Particularly during the first part of a re-election campaign, the goal may be to make the President look presidential, that is many media shots of statesmanship and working at the presidency, and acting as the national symbol: shots in the Oval Office, bill signing ceremonies, meeting with foreign leaders, etc. This is known as the "Rose Garden" strategy for re-election: presenting the media image as being above politics, and seriously working at being president for all the people. Carter, Reagan, and Bush the first did this; Bush-43 gave too many fund raising speeches to maintain a Rose Garden strategy.

But there are limits to how much the White House can manipulate the media. Major negative events cannot be hidden or even “spun”: defeats in war, inflation and unemployment, or a Watergate or Lewinsky scandal. In such situations, the White House press office must devise strategies of “damage control.”

In the 19th century presidents were frequently angry at their treatment in newspapers, the media of the time. In that century almost all papers presented the news with a political bias, and there was not an attempt to give objective coverage to a President of the opposing political party to the newspaper’s party. Jackson’s wife was accused of bigamy, infuriating “Old Hickory.” Cartoonists portrayed Lincoln as a gorilla. The media made a scandal out of Cleveland’s illegitimate child. [Ma! Ma! Where’s my Pa? Gone to the White House, ha ha ha!] Truman was angry when his daughter’s singing ability was criticized in newspapers. Nixon had bad relationships with reporters [“You have given me the shaft...” President Nixon.] The media picked on Gerald Ford, portraying him as a stumbler and bumbler, as he once stumbled getting off a plane and sometimes bumbled in his speaking. Bush the first had a problem with his media image, which was that of a rich person, removed from ordinary people. Clinton was subject to the media frenzy over sex in the White House. Reagan did the best job in controlling his image; even when he made comments like “when you’ve seen one redwood, you’ve seen them all...trees cause carbon dioxide pollution...there is more oil in Alaska than in Saudi Arabia....” he could get away with it. [Reagan opposed environmentalism.]

Clinton had a dual relationship with the press. On the one hand, he used the media quite skillfully, as in deflecting the Jennifer Flowers issue in the 1992 Democratic primaries, and in his appearance with Hilary on “Sixty Minutes.” Clinton succeeded in making Gingrich and the Republicans look like the bad guys in the budget confrontations. But Clinton was also his own undoing with the Lewinsky case which got enormous bad publicity.

President G.W. Bush seems to be skillful in dealing with the media and has good advisers about the media: Karen Hughes and others. Polls show his personal popularity is higher than support for most of his domestic policies, although much of this is due to the “rally round the President” effect.

Putting aside national security crises for the moment, in normal times presidential trips abroad, summit conferences with world leaders and other such international ceremonies help the President by his portrayal in the media as the leader of America. The major historical example was Nixon’s trip to China in February, 1972 when he indicated that the U.S. would establish diplomatic relations with China. This trip was shown in very dramatic television coverage, and built Nixon’s popularity as a smart international statesman, a big benefit in the presidential election of 1972. The first president Bush, however, was very interested in international issues and not very interested in domestic issues, and many voters blamed him for that, even though Bush tried a media campaign showing his interest in domestic issues.

From FDR to Carter, presidents usually had a press conference every two weeks, but Reagan stopped this practice and the next three presidents followed Reagan’s lead. Reagan was not good in replying to unpredicted questions calling for policy information. On the other hand, well informed presidents, such as the first Bush and Clinton, are too smart to tell the press anything new or interesting, so in my opinion, numerous press conferences are not a big loss. The last four

presidents have met with smaller groups of reporters in short, informal discussions. Full press conferences are held only occasionally, such as five times a year.

On the other hand the president's press adviser meets with the press about four times a week, and must state the president's position in regard to unpredicted questions. This person is an important member of the president's staff, and must be well informed about the administration's policies and political stances, and must be smart enough to avoid embarrassing answers.

The English custom of the weekly question period, in which the prime minister goes to Parliament and must answer aggressive questions from the political opposition, seems to be more effective in bringing out the leaders's views on national issues.

Impeachment

We will closely follow the presentation in the Pfiffner text, 254-262

Two forms of democratic governance are the parliamentary system and the presidential system. In the parliamentary system, it is relatively easy to terminate a prime minister, which happens when the prime minister can no longer get a majority to back him in the parliament. The prime minister is then expected to resign.

The presidential system of governance features the idea of a president as a stronger executive than the prime minister. One aspect of this is that the president has a set term of office and cannot be voted out by a majority of the legislature. Stability is the attraction of the presidential system; flexibility is the attraction of the parliamentary system.

But as was obvious to the Constitution writers, there must be a way to remove a President "who goes off the deep end," or who in the constitutional language, commits bribery or treason or "other high crimes and misdemeanors." The Constitution writers thus devised a process in which an offending President would have his offenses examined by the House of Representatives, acting like a grand jury. If the House voted by a majority that a trial should take place, one says that a President (or judge) is "impeached." Then a trial takes place before the Senate with 2/3 needed for conviction and with the Chief Justice presiding. The House will appoint prosecutors; the President will appoint defense counsel. The House will bring up one or more "counts" of alleged malfeasance/crimes committed by the President.

In the Andrew Johnson case, as discussed, the odd situation occurred that Lincoln put a person from the other party, a Democrat, on the ticket as a vice-president in order to appeal to Democrats and independent voters. But then Lincoln was assassinated, so that a de facto Democrat assumed the Presidency, although now calling himself a Republican. Furthermore, Johnson was headstrong and foul-mouthed. Even worse, Johnson opposed the main policies of the Republican majority in Congress, which had 3/4 majorities in both Houses.

Not surprisingly, the dominant party tried to get rid of Andrew Johnson through the impeachment removal process. As it happened, a minority within the Senate majority was concerned about the precedent this would establish for the American separation of powers

system, and Johnson narrowly escaped the 2/3 conviction and continued in office. Nevertheless, the Andrew Johnson impeachment is considered to have weakened the prestige of the presidency for the next 30 years, until the presidency recovered its prestige under Theodore Roosevelt.

Richard Nixon was impeached for being caught on tape discussing how to obstruct the investigation of the Watergate burglary his campaign had committed. The House Judiciary Committee voted 28-10 to impeach him, but before the House could vote, Nixon resigned. A significant number of Republicans in Congress supported the impeachment, and Nixon probably would have lost a 2/3 vote in the Senate. At that time both the House and the Senate had a majority of Democrats.

Nixon did not want to give up the White House tapes, but the Supreme Court ruled 9-0, including support from Nixon appointees, that he had to give the tapes to the Special Prosecutor. While many memos are deemed to be protected by “executive privilege” so that decision-makers can say or write things they wouldn’t want to be public, the Court ruled that the White House tapes were not such documents.

For the events in the Clinton impeachment, see the text. This was certainly a surprising process of events, including a President engaging in sexual escapades, a Supreme Court decision allowing the President to be sued for sexual harassment, the investigation of the President’s entire sex life as part of this case, and the President’s decision not to state the whole truth to the grand jury about his sex acts. The Republican congressional leadership decided that simply censuring Clinton for his conduct was insufficient punishment, so they sought to remove him from office but got the support of only 55 Senators on the perjury indictment, not the necessary 67. 50 Senators voted for the other indictment: obstruction of justice.

There seems to be a number of reasons why there will not be another impeachment case for some time. Presidents will now be more careful about their conduct, and may be more predisposed to confess if they are caught in some misdemeanor. Second, American opinion leaders have decided that Special Prosecutors are more trouble than they are worth. Congress did not extend the law establishing special prosecutors. The judiciary will now be more conscious of the negative side of civil lawsuits against the President while in office; the Supreme Court clearly was in error when it stated that such lawsuits would have little effect on the President’s use of time. Congressional politicians have learned that many voters can resent an impeachment procedure, which will make legislators more cautious about instituting another one.

On the other hand the rancorous partisan conflicts underlying the Clinton case may continue, or might reoccur, even if they dissipate in 2001.

-end-

The President and the Economy and the Budget

If the President avoids a Vietnam type war, and if he avoids a Watergate scandal, his [her] popularity is likely to be most heavily affected by the state of the economy. All presidents know this, but what can they do about it?

There are a large number of sources of economic advice in the contemporary government. The President will get advice from the Treasury department, especially concerned about taxes, but also concerned about the whole economy. As noted above and in the text, the President has the Council of Economic Advisers on the White House Staff, economists in the OMB, the Dept. Of Commerce to give him economic advice. The White House international trade office and the State Dept. advise on international economics. Recently, Allan Greenspan, the Head of the Federal Reserve Board, has been very influential in giving advice to the President.

[The Federal Reserve Board is not directly controlled by the President. The President nominates the Chairman of the FRB for a four year term and nominates its seven members, who have 14 year terms. The nominees are confirmed by the Senate. These long terms are intended to remove the FRB from politics, in that it is unlikely that one President will nominate a majority of the FRB members. The seven member FRB is expanded to 12 to comprise the Open Market Committee, which sets the interest rates charged to banks borrowing money from the FRB (basically the OMC sets the country's interest rates). The other five members on the OMC are presidents of regional FRB banks. Thus, the Federal Reserve Board is the government agency which controls interest rates. Allan Greenspan has been the Chair of the FRB since around 1984. In the 1980's, journalists sometimes called Greenspan the second most powerful government official.]

Economic advice is coordinated for the President by his White House Economic Council, the members of whom are not major public figures. Of course this Council does not coordinate everything, and Greenspan and the Secretary of the Treasury, among others, have direct access to the President.

The Budget Cycle

Each year Congress votes on the budget for the next year. But the next year fiscal year starts on October 1. Fiscal 2005 started on October 1, 2004.

Much of the President's work involves compiling and getting support for the presidential budget, presented to Congress around February 1, for the next fiscal year starting on October 1. OMB is the center of presidential budget-making. Several months before February 1, executive branch agencies are making their budget requests to OMB. Agencies normally ask for new programs and for more money. If the President wants a new program, the agency will prepare a budget request. OMB coordinates all the agency requests; OMB refuses many agency requests on its own; it will take other agency requests to the White House for consideration. The President has the last word on the presidential budget. The budget is one way of stating the President's

program, since all program items require money to carry them out. If a program is abolished, it will no longer be in the budget.

The budget is literally a book published by the OMB. But it is broken up into a tax bill or bills, and 13 separate appropriations bills because appropriations bills are divided up by executive departments or groups of executive departments. These bills are introduced by the President's party in Congress. The progress of the President's budget depends on the congressional process, and the President must support his budget using political techniques mentioned earlier, such as veto threats, deals with the leadership of Congress, and so on.

A budget resolution is supposed to be passed by Congress in the May preceding the October 1 of the next fiscal year. This resolution combines both taxes and expenditures in one bill. The congressional budget resolution is a guideline only, not a fixed law. But it means that additional spending or taxes is more difficult to justify in Congress when new items deviate from the budget resolution. In some years, Congress is unable to agree on a budget resolution, and proceeds without it.

There is not one final budget bill. There are one or more bills concerning changes in the taxes. There are then 13 separate appropriations bills. Sometimes several appropriations bills are combined into an "omnibus appropriations bill." This happens at the end of the congressional session, one session per year. If there is a lack of agreement, the congressional leadership may decide that there is not enough time to consider bills separately, so they are combined. This happened in November, 2004, in which nine appropriations bills were combined into an omnibus bill, which was 1,300 pages long and prepared over a weekend. Probably no member of Congress was able to read the whole omnibus bill in 2004

The budget bills are passed every year. In the fall of 1995 we witnessed what can happen when the President and Congress cannot agree on appropriations. For lack of appropriations, some agencies of the federal government had to shut down for days or even for three weeks, before Gingrich and the House Republicans backed down as public opinion sided with the President in this issue.

Deficits and Surpluses

The total national debt is about 7 trillion dollars in 2004. The total economic output of the U.S. is about 10.3 trillion dollars in 2004. The yearly deficit was about 415 billion dollars for 2003-2004 fiscal year. This is about 3.8 percent of the Gross National Product. The national debt is the sum of the yearly deficits.

Clinton turned a 290 billion deficit under the first Bush to a 125 billion surplus in his last year. This was mostly due to the improvement in the economy, but one of the reasons the economy improved is that Clinton worked to balance the budget by raising taxes (1993) and not proposing new expenditures that were not matched by cutbacks to match the expenditures. This kept interest rates down, since the government borrowed less, and this encouraged investment.

However, under the second Bush the budget quickly fell into deficits. Half of this was due to the decline in the economy, not the fault of Bush. The other half was due to the 100 billion increase in defense spending following 9-11, but also due to the Bush tax cuts (largely repealing the Clinton tax increases). In the opinion of the instructor, a deficit of 200 billion is needed to help the economy in a recession, but 400 billion is too large.

The federal government now spends 2.2 trillion per year. It takes in about 1.8 trillion in taxes. [Figures subject to checking.]

Economists worldwide think that a government should not spend more than 3% of a country's total national product in government deficits. Further, a compilation of such deficits for several years will lead to a national debt too large for a successful economy. As a rule of thumb, a country is in economic trouble when its debt is greater than a year's gross national product. The U.S. is not close to this point, but continuing deficits mean that interest rates will go up. In recent years, most democracies have been running 3% GNP deficit levels or even higher, so the U.S. is not alone with its 3.8 deficit level. Apparently overspending the budget is a problem with the policies of most modern political leaders.

The government meets the deficit by selling treasury bonds. Then it pays interest on the bonds, meaning that the taxpayers pay this interest. In fiscal 2002, interest on the national debt was 339 billion dollars. [Defense spending in 2003-2004 was about 400 billion dollars.] About 70% of the debt is owed to American bondholders: citizens, banks, insurance companies, pension funds, mutual funds, and so forth. Still 30% of the national debts is owed to foreigners, with the Chinese and Japanese governments buying much of this, in addition to European and Saudi bondholders. Thus both Americans and foreigners claim the interest (paid by taxpayers) on the national debt.

In 2004 a major concern is that the American trade deficit is lowering the value of the dollar, and that at some point, foreigners will stop buying treasury bonds as it is feared their dollar worth will keep declining. This would mean that the U.S. government would have to raise interest rates for the country as a whole, in order to sell the bonds, in other words, inflation.

[The international trade deficit is not the same thing as the yearly government deficit. The trade deficit means that Americans buy more than they sell, so we are giving them more and more dollars for the stuff we buy, making the dollar less valuable in terms of the euro or the yen.]

Summary of presidents and the economy

Eisenhower, 1953-1961. Balances budgets. Low inflation, low interest rates, prosperity. Low government spending as there is no medicare, medicaid, food stamps, no aid to education, few student scholarships, and no expensive wars. Ike's main goal was to cut spending and balance the budget.

Kennedy, 1961-63. Believed in Keynes. Cut taxes for economic growth. Seems to have worked.

Johnson, 1963-69. Increased spending for Vietnam War. Unbalanced budgets. No major tax increases to pay for war. Inflation begins.

Nixon, 1969-74. Tries to stop war-induced inflation by a wage and prices freeze; government regulation of prices and wages. This does not achieve much success in long run. Ends Vietnam War in Jan. 1973, and cuts defense spending. But inflation continues. Another problem is foreign countries set up OPEC oil price cartel and raise energy prices in 1973.

Ford, 1974-77. Inflation continues; he does little.

Carter, 1977-81. Inflation gets worse. In 1979 OPEC initiates second energy price increase. In last year, appoints strong man banker Paul Volcker to be Federal Reserve chief. Interest rates soar to stop inflation. Public angry at Carter.

Reagan, 1981-89. Backs Volcker at FRB. High interest rates cause major recession with 11% unemployment which breaks inflation. Reagan also opposes inflation by encouraging foreign imports, advancing deregulation in transportation industries, taking the lead in reducing the power of unions. Income and corporate tax cut kicks in, helping economic growth. Bankers and executives believe in Reagan's economic conservatism, and resultant investing helps recovery, which lasts from the spring of 1983 until the summer of 1990. Reagan doubles national debt in eight years, creating a long range problem. Reagan cut domestic spending, but this was offset by major increase in defense spending. Worker payroll taxes increased.

Bush the first; continues Reagan policy of deficits, but does raise some taxes to control the deficits. But Bush-41 does not act to combat the 1990 recession, a major cause of his defeat by Clinton.

The instructor concludes that presidents can do quite a bit to affect the economy, especially by preventing government deficits from becoming too large. This means a president must raise taxes and/or cut spending, or at least avoid major new expenditures without counterbalancing actions. A president can also act to avoid recession by planning government deficits, perhaps at 2% of the GNP. Republicans prefer tax cuts for investors during recessions; Democrats prefer temporary reductions in the social security payroll tax.

Reagan and Clinton were re-elected, largely due to a successful economy. While their policies had something to do with this, one must say that they were also lucky in comparison to some other presidents. Thus it was difficult for Ford or Carter to control inflation and they both lost. Bush-41 was at the end of the Reagan boom; Bush-43 was at the end of the Clinton boom, and this was bad luck. Still the instructor would say both Bushes could have had better economic policies.

Economic Theories Used by Presidents

Keynesian economics. This was the theory of how to govern the economic situation as put forth by this British economist in the 1920's. Briefly, Keynes said: don't get hung up on balancing the budget. If the economy is in recession, put money into the hands of the people by cutting taxes and increasing government spending. But if there is inflation, do the opposite: take money away from people by increasing taxes and cutting government spending. This seemed to work for the years 1933-1968, but then it stopped working. However, the basic ideas of Keynes are still assumed to be true by both Democrats and Republicans, but they must be worked in with monetarist theory.

Monetarism. Recently the more dominant theory about how to govern the economy. If there is recession, don't rely on taxes and spending changes. Instead, lower interest rates so that there is investment and jobs. If there is inflation, do the opposite: increase interest rates, cutting investment and jobs, thereby bringing prices down. The main monetarist theorist was Milton Friedman of the University of Chicago.

Supply side economics. Opposed by most economists but advocated by some conservatives. This theory says govern the economy with a big tax cut, which may produce a deficit in the short-run, but in the long run, there will be more money for investment, producing jobs and prosperity which will wipe out the government deficit. Reagan believed in this theory; the problem is that the deficit does not get wiped out. SSE is associated with its popularizer, The Wall Street Journal, and with politicians Jack Kemp and Steve Forbes.

President George W. Bush is acting in accordance with this theory, but he doesn't admit it. SSE is called "trickle down" economics by Democrats, who focus on the idea that tax cuts for the rich lead to investments which "trickle down." Milton Friedman also opposed this theory.