

# THE PRESIDENT AND DOMESTIC POLICY

## Lecture Notes

### I. Domestic Policy

- A. Definition - *decisions, laws and programs made by the government related to issues within the country*
- B. Examples: civil rights, education reform, transportation projects, Social Security, Medicare, Medicaid)

### II. The President as Policy Maker

- A. FDR sent his 1st legislative package to Cong., breaking traditional model of law making
  - 1. President claimed a leadership role in the legislative process
  - 2. **“It is the duty of the President to propose and it is the privilege of the Congress to dispose.”**
- B. Now the president executes the laws, he and aids suggest them too
- C. Conventional wisdom: most Democratic Presidents since FDR have shared this expansionist view while many Republicans see Congress as the leader.
  - 1. Dems: LBJ and Great Society, Clinton and Healthcare; but, what about Obama?
  - 2. Reps: Eisenhower, Bush 41 (domestic policy); but what about Nixon, Reagan, and GWB?
  - 3. **The Reality: on balance, modern presidents, regardless of party, take a more expansionist view of domestic policy**
- D. The public now looks to the President to set legislative and policy agenda: Obama and healthcare reform?
- E. State of the Union Address - President sets agenda, but still must get a member of HOR or Senate to write and sponsor bill
- F. In essence, Congress has delegated much of its Constitutional power to President

### III. The Political Reality of Divided Government

- A. *Divided Government* – situation in which one party controls the White House and another party controls one or both houses of Congress
- B. *Statistically Speaking* – divided government has been more of the norm since 1955 (1955-2013 (last 58 years))
  - 1. Unified government = 20 years (Dem control = 16 years; Rep control = 8 years)
  - 2. Divided government = 38 years
- C. *Problems with divided government?* Separation of powers gone awry; conventional wisdom is that really true?
- D. *Why do the American people seem to prefer divided government i.e. what's the benefits?*
  - 1. A check on power – prevents the concentration of power as the 2 parties serve as watchdogs over the other. (concern after Watergate especially)
  - 2. Statistically, the economy grows at a higher rate during divided government
  - 3. Since both parties are held responsible for government, they are more likely to compromise (examples: welfare reform and budget surpluses during the Clinton administration with a Rep Congress; No Child Left Behind)

### III. Congress v. The President: Modern Presidency Appears to have Overpowered Congress

- A. *Veto overrides*: only 4% of vetoed bills get overridden by 2/3 majority from both houses
  - 1. threat of veto: Cong. writes bill differently
  - 2. Exceptions: War Powers Resolution, partial birth abortion ban, marriage tax
- B. *Presidents Informal Powers Considerable*:
  - 1) *Executive Orders* – Carry the force of law without Congressional approval. Implications for Congress?
  - 2) *Executive Agreements* – Used in foreign policy only, trade agreements that do not require Senate ratification  
>>> Implications for Congress?
  - 3) *Presidential Signing Statements* - a written comment issued by a President at the time of signing legislation.
    - The more controversial statements involve claims by presidents that they believe some part of the legislation is unconstitutional and therefore they intend to ignore it or to implement it only in ways they believe is constitutional.
    - James Monroe first President to use signing statements, but most Presidents including Obama have issued them
    - GWB controversial: ex: Signing Statement for Detainee Treatment Act of 2005

### C. *Economic Policy*

1. Congress as Constitutional power of the purse
2. Budget - prior to 1920, President had no role; now President authors the budget >>> Office of Management and Budget (OMB), Council of Economic Advisors (CEA), Secretary of Treasury
3. 1974 - Cong. fights back to restore some of its power w/ the Congressional Budget Office (CBO)

### D. *Checks on Presidential Power:*

- 1) President not always successful in getting their agenda through Congress: Ex JFK and Civil Rights; Clinton & Healthcare; GWB Social Security reform; Obama and gun control, immigration reform?
- 2) Congress can pass laws limiting Presidential power: War Powers Resolution (WPR)
- 3) Impeachment: the ultimate check on presidential power
  - High standard: “Treason, bribery or other high crimes and misdemeanors” ~ Art. II
  - House: conducts investigation, must bring articles of impeachment against pres. (simple majority)
  - Senate: conducts trial w/ Chief Justice presiding, must vote for conviction in each article (2/3 vote)
  - Used sparingly: 1) Andrew Johnson (1868) 2) Bill Clinton (1998); Nixon resigned imminent threat of impeachment (1974)
- 4) The Supreme Court intervenes sparingly through judicial review
  - *US v. Nixon* (1973) – President cannot claim unlimited executive privilege
  - *Clinton v. NYC* (1998) – Line-item veto unconstitutional
  - *Hamdan v. Rumsfeld* (2005) – GWB military commissions violate Constitution and international law

### IV. Political Satire: SNL’s *Schoolhouse Rock Immigration Bill* and *Obama’s Anti-Depressant Ad*

### V. Structured Academic Controversy: Did President Obama’s executive order on immigration exceed his authority as President?