COMMONWEALTH: A Journal of Political Science

EDITOR: Donald G. Tannenbaum (Gettysburg College)
CO-EDITORS: Thomas Baldino, Wilkes University
Martin Collo, Widener University
CO-MANAGING EDITORS: James Morse, Widener University
Gordon Henderson, Widener University

EDITORIAL REVIEW BOARD

Aryeh Botwinick
(Temple University)

M. Margaret Conway
(University of Florida)

Roger H. Davidson
(University of Maryland)

Jean B. Elshtain
(Vanderbilt University)

Richard F. Fenno
(University of Rochester)

Marianne Githens
(Goucher College)

Susan W. Hammond
(American University)

Samuel Krislov
(University of Minnesota)

G. Calvin Mackenzie
(Colby College)

Michael J. Malbin
(State Univ. of N.Y. at Albany)

Harvey C. Mansfield, Jr.
(Harvard University)

Kenneth F. Mott
(Gettysburg College)

Craig N. Murphy
(Wellesley College)

Mark P. Petracca
(University of California, Irvine)

Elmer Plischke
(University of Maryland, Emeritus)

H. Mark Roelof
(New York University)

Bruce M. Russett
(Yale University)

Victoria Schuck
(Stanford University)

J. David Singer
(University of Michigan)

Elliott White
(Temple University)

Aaron Wildavsky
(University of California, Berkeley)
Contents

Volume 6 1992-1993
ISSN 0890-2410

Ronald K. McMullen .......................................................... 1

Institution and Virtue in the Judiciary
Stephen H. Wirls .................................................................. 20

Joining International Organizations: The United States Process
Elmer Plischke ................................................................. 48

Pennsylvania Regional Politics

Recent Developments in Interest Group Activity in the Northeastern States: A Comparative Perspective
Clive S. Thomas and Ronald J. Hrebenar ............................. 78

Review Essay

From Great Books to Serviceable Course Texts: A Review of Recent Introductory Political Theory Textbooks
David Schultz ................................................................. 106
ABOUT THE AUTHORS

Ronald J. Hrebenar is a Professor of Political Science at the University of Utah. His publications include books, articles and chapters on interest groups, political parties and Japanese politics.

Ronald K. McMullen is a Visiting Professor at the U.S. Military Academy, West Point. Previous publications include works on ethnic reconciliation in Sri Lanka and the role of microstates in world affairs.

Elmer Plischke is a Professor of Political Science Emeritus of the University of Maryland. In addition to over 100 articles and editorials, he is the author of 28 books and monographs, including Contemporary U.S. Foreign Policy, Diplomat in Chief: The President of the Summit, Conduct of American Diplomacy (three editions).

David Schultz is an Assistant Professor of Political Science at Trinity University in San Antonio, Texas. He has previously published in COMMONWEALTH on Hegel, is the author of books and articles on property rights in America and plant closings, and is co-author of a book on the U.S. Civil Service.

Clive S. Thomas is a Professor of Political Science at the University of Alaska in Juneau. He has publications in the areas of interest groups, state politics and legislative process.

Stephen H. Wirls is an Assistant Professor of Government at Franklin and Marshall College. His current work is on Machiavelli's institutional theory.

NOTE: The full title of Elmer Plischke's article in Volume 5, "Evolution of Participation in International Organizations: the United States Experience," was listed in the article, but the subtitle was omitted on the title page and in the Index.
ACKNOWLEDGEMENT

COMMONWEALTH is published annually under the authorization of the Pennsylvania Political Science Association and sent to all members, individual, departmental and institutional.

Subscription rates for all categories of membership: see separate announcements elsewhere in this issue. Changes of address sent to PPSA Secretary, Dr. Thomas Brogan, Albright College, Reading, PA 19603. Postmaster: send notification about undelivered journals to this address. Second class postage paid at Harrisburg, PA and at additional mailing offices. Copyright 1990 by the Pennsylvania Political Science Association. (ISSN 0890-2410).

COMMONWEALTH will print free of charge camera-ready official announcements of up to one page of the American Political Science Association, as well as the Northeastern Political Science Association and its constituent members, and other organizations whose Journals provide corresponding privileges to PPSA. Contact the Managing Editor.

Advertising and reprint information and rates are also available from the Managing Editor.
OFFICERS

President
Thomas Baldino
(Wilkes University)

First Vice President
Zachary Irwin
(Penn State, Behrend College)

Second Vice President
Joseph Melusky
(St. Francis College)

Treasurer
Donald Buzinkai
(King's College)

Secretary
Thomas Brogan
(Albright College)

Past President
Michael Roskin
(Lycoming College)

EXECUTIVE COUNCIL

1990-1993
James M. Hoefler
(Dickinson College)

Richard Martin
(Slippery Rock University)

1991-1994
Nicholas Berry
(Ursinus College)

Carol Nechemias
(Penn State, Harrisburg)

1992-1995
Kathleen McQuaid
(Mansfield University)

Patricia Dunham
(Duquesne University)
In the **COMMONWEALTH**

**Donald G. Tannenbaum, Editor**

There are a number of important changes under way at **COMMONWEALTH**. Beginning with the next issue, Volume 7, this journal will have a new Editor. Thomas Baldino, who is a Co-editor for Volume 6, will take over the task of overseeing the entire operation; effective immediately, all new manuscripts should be sent to him. The new mailing address for submissions may be found on the inside back cover of this issue. I will assume the post of Co-editor, along with Martin Collo, who has rejoined us this year as our second Co-editor; he had previously served as Managing Editor for Volume 3.

This issue also contains the first of what we hope will be a regular feature of **COMMONWEALTH**, a review essay on recent textbooks in a field or subfield of political science. We feel such reviews can be of great value to teachers seeking new course materials, and we welcome proposals for future essays; guidelines for those who wish to propose one may be found on the inside back cover, following the Editor’s mailing address.

Now to the substance of this issue. David Schultz is author of our first review essay, which discusses seven current texts in political philosophy. That review follows four articles reporting new research, one each in four of the major subfields of the discipline. In the lead article, Ronald McMullen utilizes a version of coalition theory working through patronage networks to explain political instability in contemporary African politics. Then, Stephen Wirls considers the larger Federalist goal behind the design of a narrow scope for judicial review in the United States Constitution. Next, in the second of the two related articles (the first appeared in Volume 5) Elmer Plischke examines how Congress and the President have continued a nineteenth century pattern of cooperation in foreign relations into the twentieth century, enabling the United States to join over 100 international organizations since 1945. The final article, by Clive Thomas and Ronald Hrebenar, takes our traditional feature on Pennsylvania politics to a larger scope, analyzing the interest group systems of eleven Northeastern states and comparing them to the fifty states as a whole.

I would be amiss if I did not conclude these remarks with an expression of sincere appreciation to all those who have contributed over the
years to the success of this journal. My thanks especially to my co-editors and our several managing editors, to our distinguished Editorial Review Board and our many anonymous reviewers. Finally, my gratitude to the Officers, Executive Council and members of the Pennsylvania Political Science Association, without whom we could never have come this far. As Editor, I have been fortunate indeed to have enjoyed such strong support, and I now look forward, together with the many constituencies who have helped me in the past, to working with Tom Baldino as he assumes the post of Editor.
COMMENORATING ITS FIFTIETH ANNIVERSARY, PPSA ESTABLISHED THIS NEW CATEGORY OF MEMBERSHIP. FOR A MOST REASONABLE CHARGE, ON A SINGLE FORM, AN ENTIRE DEPARTMENT CAN NOW JOIN PPSA. MEMBERSHIP INCLUDES, FOR EACH MEMBER OF YOUR DEPARTMENT WHOM YOU LIST, THE FULL BENEFITS OF INDIVIDUAL PPSA MEMBERSHIP, INCLUDING:

* personal copies of Commonwealth
* the new Pennsylvania Political Scientist (our expanded Newsletter)
* advance Call for Papers for the Annual Meeting

DEPARTMENTAL MEMBERSHIP ANNUAL DUES, DEPENDING ON HIGHEST DEGREE GRANTED IN POLITICAL SCIENCE ON YOUR CAMPUS:

* Doctoral-granting schools $100.00
* Masters-granting schools 75.00
* Bachelors-granting schools 50.00
* Two-year campuses 25.00

TO ENROLL PRIOR TO THE ANNUAL MEETING, MAIL BY APRIL 1 TO:

PPSA TREASURER, DR. DONALD BUZINKAI
KING'S COLLEGE, WILKES-BARRE, PA 18711.

CHAIRPERSON'S NAME: ________________________________

ADDRESS: ____________________________________________

________________________________________________________________________________________

CITY, STATE, ZIP: ______________________________________

CHECK ENCLOSED, SUM OF: ____________________________

PLEASE LIST CURRENT FACULTY MEMBERS IN YOUR DEPARTMENT WHO ARE TO RECEIVE ALL MAILINGS ON A SEPARATE (LETTERHEAD) PAGE, ALPHABETICALLY, WITH ACADEMIC RANK NEXT TO EACH NAME.
To Individual Members: Remember, when you join the Pennsylvania Political Science Association, the oldest state political science association in the United States, membership includes COMMONWEALTH: A JOURNAL OF POLITICAL SCIENCE.

If you will not be able to attend the meeting this year and want to maintain your individual membership (enabling you to receive the next issue of COMMONWEALTH, the new Pennsylvania Political Scientist and all other mailings), please complete the form below and mail it in, postmarked before April 1.

Note: If your department has enrolled as a Departmental Member, you are already a member and need not personally enroll or pay additional dues to receive all benefits of membership. In addition, as long as your department continues as a Departmental Member, it will not be necessary for you to remember to renew each year in order to continue to support PPSA and receive all benefits. If your department has not yet enrolled, PPSA encourages you to share the Departmental Membership Form in this issue with your Chairperson.

Membership Rates:
* Individuals: $ 5.00
* Students: $ 3.00
* Institutional and Library: $12.00
(Add $1.00 for foreign countries)

Mail To:
PPSA Treasurer, Dr. Donald Buzinkai,
King's College, Wilkes-Barre, PA 18711.

NAME__________________________________________________________

AFFILIATION____________________________________________________

ADDRESS_______________________________________________________

CITY, STATE, ZIP_______________________________________________

Check Enclosed, Sum of:__________________________________________
Dynamic Patronage Coalitions
A State-Society Framework for Interpreting African Politics

Ronald K. McMullen
United States Military Academy

This study suggests that the framework of dynamic patronage coalitions, based on Roker's coalition theory and the workings of patron-client networks, can fruitfully be utilized in analyzing African politics, particularly in light of the increasing prevalence of state-society approaches and the need for a comparative referent. The dynamic of coalition narrowing helps explain the frequency of coups, secession attempts, and exile invasions in the first decade or so after 1960, while coalition retraction accounts for the disengagement of portions of the citizenry from the channels of state in more recent years. The current sociopolitical turmoil affecting many African states indicates that coalitions stemming from an anti-incumbent class identity may successfully challenge stagnating coalitions of long-entrenched patrons.

The increased utilization of state-society approaches in the analysis of African politics in recent years has significantly augmented or replaced models based solely on modernity, dependence, state institutionalization, or other perspectives. The seminal work by Migdal (1988) and the stimulating and insightful anthology edited by Rothchild and Chazan (1988) exemplify this type of approach which focuses on the dynamics of intertwined political, societal, and economic factors. The state-society perspective highlights the complexity and nuances of the sociopolitical processes of power and choice, and permits a multi-faceted interpretation of the politics of African states. As Chazan (1988: 141) submits in "Patterns of State-Society Incorporation and Disengagement in Africa,"

The reorientation of political analysis away from the official and visible and toward the interactive and dynamic
may assist in breaking away from the narrow confines of formalistic frameworks. It may also redirect research concerns and their practical ramifications to better reflect the rhythm of ongoing political processes in Africa.

However, avoiding "formalistic frameworks" while retaining nuanced complexity is a challenge that must be met by those wishing to undertake comparative political analysis in Africa using state-society approaches. How best to come to grips with the task of comparing politics in states using an approach that provides sufficient richness without becoming overly formalistic or deterministic? This study suggests a framework, herein referred to as dynamic patronage coalitions, which may help overcome this dilemma and aid in interpreting comparative politics in the African context. By fusing aspects of Riker's coalition theory and the workings of patron-client networks one may usefully conceptualize regimes in Africa and elsewhere as being comprised of coalitions of patrons, regardless of the power of an individual autocratic head of state or the robustness of a given single-party political system. These coalitions are dynamic in that they are subject to pressures leading to changes in membership and form.

The wave of coups d'état and secession attempts in the years following African decolonization, the subsequent withdrawal of sizeable segments of society from the formal channels of state, and the recent social unrest leading in some cases to the introduction of multiparty systems are generalized trends that can be explained in comparative terms by the dynamic patronage coalition framework. The driving force behind this pattern of activity can be viewed as a quest for the minimum winning coalition by competing or cooperating groups of patrons.

Coalitions And Patron-Client Networks

One of the leading tenets of Riker's seminal work, The Theory of Political Coalitions, concerns the "Size Principle" of the minimum winning coalition. He finds that "in social situations similar to n-person, zero-sum games with side-payments, participants create coalitions as large as they believe will ensure winning and no larger" (1962: 32). Coalition partners, to paraphrase Riker, seek to form and maintain coalitions just large enough to rule, but as small as possible so as to maximize their own share of power, "pork," prestige, etc., resulting from their positions of influence. Hinckley,
referring to the Size Principle, notes, "this conclusion, which is important and not obvious in its political implications, has been widely adopted and tested" (1981: 29).

An important corollary to the Size Principle is what Riker calls the "Information Effect." He avers that "the greater the degree of imperfection or incompleteness of information, the larger will be the coalitions that the coalition-makers seek to form and the more frequent will winning coalitions actually formed be greater than minimum size" (1962: 88). Few African political systems have anything remotely approaching perfect information. This is partially a result of the infrequency of competitive elections (which serve as feedback mechanism to parties and politicians) and to a lesser degree to the lack of public opinion sampling methods available to poor countries with underdeveloped infrastructures.

The dynamics accompanying the quest for the smallest possible ruling coalition can contribute to political instability. In "The Instability of Minimum Winning Coalitions" Frohlich argues that in many situations such coalitions are inherently unstable, as political losers have incentives to form countercoalitions from which to challenge the incumbent regime. To prevent the formation of countercoalitions members of the ruling coalition must vie with losers for the favor of potential members of the countercoalition by offering them coalition membership or by other means, possibly creating ruling coalitions larger than minimum ruling size (Frohlich, 1975: 943). Incomplete information as to what constitutes minimum ruling size in systems based on sheer political power rather than those base on parliamentary majorities, for example, further adds to the potential for instability.

Although Riker's work on coalition theory is particularly relevant to the study of well-established parliamentary democracies, can it also be employed in the analysis of political systems which infrequently exercise constitutional regime change and have sometimes opaque domestic political structures? Lijphart concludes that the applicability of Riker's Size Principle is limited to two types of societies, those which are homogeneous and consensual, and those "societies marked by extreme internal antagonisms and hostilities" (1977: 27). Many African states are beset by internal antagonisms and hostilities, although there is wide variation in the degree of extremity. Lijphart argues that in plural society where political stakes are often high, a grand coalition may be more appropriate than politics based on rival groups or coalitions vying for power (1977: 27). However, due to the "high stakes" and internal antagonisms and hostilities
extant in many African states, an authentic grand coalition in Lijphart’s sense may not be easily attainable. Many regimes settle for what we will call a pseudo grand coalition, a regime form associated with the dynamic of coalition retraction, discussed below.

The dearth of functioning parliamentary democracy in much of sub-Saharan Africa does not preclude the notion of political coalition formation and maintenance from being an important political dynamic—but it does force us to focus on something other than coalitions of political parties or factions in the Western sense. Coalitions of what, then? Patron client relationships, linking the state center to the national periphery, appear to function in varying degrees of importance in most African states, regardless of political orientation, level of development, ethnic mix, colonial heritage, or governmental form. "Throughout the postcolonial period in Africa, patron-client and patron-patron relations became the most common form of political exchange" (Chazan, Mortimer, Ravenhill, & Rothchild, 1988: 172), and seem to offer a viable alternative to political parties and factions as the building blocks of coalitions in the African context.

An important difference between coalitions of political parties and those composed of patron-client networks needs to be noted. Party members in many European states can easily change parties for whatever reason, facing a veritable smorgasbord of options if not satisfied with their current political allegiance. In Africa the relevant patron-client networks are typically based on ethnoregional or corporate identity, although these commonly overlap. Ethnoregional networks may spring from family, clan, village, ethnic, provincial, language-group and/or regional ties. Corporatist networks are based on formal and informal hierarchies in organizations such as civil service, police, military, or party structures. Clients, therefore, can join another patron-client network only with great difficulty in most cases. The resulting option for disgruntled clients is not "which of several others," but "in or out." Rather than opting for complete incorporation or disengagement from the state system via the patron-client network, many individuals become adept at straddling—the "constant movement between the official and unofficial, the private and the public, the rural and the urban" (Rothchild & Chazan, 1988: ix)

Patron-client networks, as a type of social relationship, have been examined by scholars in hundreds of vastly differing cultures and polities. James Scott (1977: 124-125) offers the following useful, if general, definition:
The patron-client relationship—an exchangerelationship between roles—may be defined as a special case of dyadic (two-person) ties involving a largely instrumental friendship in which an individual of higher socioeconomic status (patron) uses his own influence and resources to provide protection or benefits, or both, for a person of lower status (client) who, for his part reciprocates by offering general support and assistance, including personal services, to the patron.

This study will employ a more overtly political, specialized variation of the general patron-client relationship. Eisenstadt and Roniger (1984: 230) develop the concept of "Patron-Brokerage," a situation in which a national-level politician (in the typical African case, the head of state) seeks out the support of local or regional elites/notables and offers an exchange of access to the "center" for the local patron's political support.

These "Patron-Brokerage" relationships may evolve into what Eisenstadt and Roniger term "Organizational Brokerage," by merging the relationship with a formal organization such as a political party. These specialized patron-client relationships "tended to engage in redistributive activity to secure wide support through the grant of actual favors or through the promise of help proffered by party- and faction-directed brokers" (Eisenstadt & Roniger, 1984: 231). The success of such relationships depends on the patrons' "access to the organs of the state and to the channels of delivery of its resources, as well as on their ability to use them in a particularistic way to gather political support" (Eisenstadt & Roniger, 1984: 231).

Over time, two interlocking tiers of patron-client networks may emerge. The first links the Grand Patron (usually the head of state) to the other patrons in the ruling coalition, as in the relationship between a head of state and his cabinet ministers. The second binds a patron and his primary constituency (e.g., a cabinet minister and his rural clients). In fact, the minister's primary clients may themselves serve as patrons on a even more peripheral scale, but these micro-networks are beyond the scope of this study.

Patrons directly participating in ruling coalitions at the state center frequently hold ministerial portfolios, although other positions of power and influence in the civil service, military, judiciary, or parastatal sector may also indicate coalition membership. A head of state will form and/or
Commonwealth

maintain his ruling coalition by selecting partners who can contribute to the political power base of the regime. Thus, the popular governor of X province becomes the minister of transportation, the son of a powerful clan leader in the president's ethnic group becomes minister of commerce, and the former chief of police becomes the new minister of the interior. The relevant political medium is not the fraction of parliamentary seats held by the coalition, but the much more ambiguous objective of controlling a dominant share of political power or authority in a given polity.

Dynamics: Coalition Depth Versus Breadth

Two predominant types of coalition dynamics can be discerned from an overview of the past three decades of politics in Africa. Both can be thought of as efforts by the ruling coalition to reach minimum size, as Riker's Information Effect suggests many African coalitions will be oversized initially. The first dynamic deals with the narrowing of the political base of a regime as entire patron-client networks (usually based on ethnoregional or corporatist identities) are cast off by the remaining coalition partners. The second, coalition retraction, is characterized by atrophying links between patrons, who may be members of a pseudo grand coalition, and their clients in the periphery. Coalition narrowing and retraction, if not checked, may lead to secessions or coups being mounted by countercoalitions in the first case, or gradual disengagement by the citizenry from the state in the second. Both have important implications for regime stability and performance, and are dealt with in greater detail below.

Coalition Narrowing. At independence many newly empowered African governments faced legal opposition primarily from ethnic or regionally based rival parties (Chabal, 1986: 7). Mazrui writes that "as independence approached, the nature of ethnic politics began to shift away from 'race' as the ultimate line of cleavage to 'tribe' and region" (1975: 67). The liberal democratic constitutions inherited at decolonization were undermined in many cases by incumbent rulers who "were neither secure enough in their positions nor firm enough in their commitment to liberal ideologies to maintain these arrangements" (Chazan, 1988: 166). However, Jackman (1978: 1271) found the pre-independence political alignments and structures to be a surprisingly durable factor in explaining threats to incumbent regimes by coup-mounting challengers. Thus, in the years following independence both successful and losing coalitions were
frequently comprised of patron-client networks based on ethnoregional, or later, corporatist identities.

Due to the vagaries and dangers arising from imperfect information in the context of coalition formation, many independence-era and subsequent ruling coalitions erred on the side of inclusiveness (Riker’s Information Effect). Both a colonel plotting a coup d’etat and a party loyalist maneuvering for position in a succession struggle were apt to overreach when attempting to cobble together a potential winning coalition. First, the imperfection of available information in determining how much "power" is needed to form a ruling coalition (how many battalions or party notables does one need?) makes the whole calculation very tenuous. Secondly, underestimation of the size necessary to form a winning coalition could be a matter of life and death—particularly in the colonel’s case.

Once the "overly inclusive" coalition takes office, Riker’s Size Principle may set in motion the drive toward minimum size. The partners (perhaps led by the head of state) may judge that the coalition could be safely shrunk by some amount. Since cabinet slots are rarely abolished, the "excess" coalition partner may be shipped off as an ambassador or otherwise dumped. Portfolios could then be reshuffled to the remaining patrons in the slimmer coalition, or a non-patron "cipher" put in the empty cabinet seat. More likely, the ousted patronage network will be replaced by another more closely mirroring the remaining coalition partners’ interests—if a southern patronage network is cut away from a northern-dominated coalition, the vacant slot might be filled by another northern patronage network, thus narrowing the political base of the coalition.

The dynamic of coalition narrowing may stop before the coalition surpasses minimum size. At some point, however, the lack of information in the system may lead the regime to shrink beyond minimum ruling size. Not only do patrons in the coalition partnership have to deal with incomplete information, but the size of the minimum winning coalition may change over time. Yesterday’s larger-than-minimum coalition may fall beneath minimum size today as a result of exogenous variables such as a natural calamity, global market shifts, external political changes, etc. Once that indistinct line is crossed, the narrowed regime may be the victim of a coup d’etat, exile invasion, secession movement, or other direct challenge mounted by a competing coalition.

The plethora of non-constitutional regime changes and secessionist attempts in Africa, particularly in the late 1960s, highlights the difficulty with which ruling coalitions were able to discern (and exceed) minimum
size in newly-independent states. From 1965-69 some 21 successful coups d'état were carried out in Africa, compared with an average of less than ten in subsequent five-year periods (McGowan & Johnson, 1986: 542). Given the fact that ethnoregional and/or corporatist (particularly after a coup) identities frequently served as the initial basis for coalition formation, it should not be surprising to find that coalition shrinkage toward minimum winning size in the years following independence proceeded along ethnoregional or corporatist lines. Groups of patrons excluded from the ruling coalition and shut off from practical legal channels of winning political power resorted to non-constitutional means to achieve this end through mounting coups d'état, secessionist movements, exile invasions, etc. Thus, the high degree of regime instability in African states in the decade following decolonization may partly have arisen as a result of coalition narrowing—which allowed excluded and uncowed ethnoregional and/or corporatist patrons the possibility of establishing rival coalitions with which to challenge the incumbent regime.

The dramatic coalition narrowing which occurred in Uganda from 1966 until 1979 is well documented in Kastir’s (1976) The Shrinking Political Arena and elsewhere. Mazrui (1975: 49) notes the narrowing ethno-military base of support from Obote’s to Amin’s rule. Uganda’s ruling post-1966 northern coalition was sundered by Acholi-Langi versus West Nile rifts which resulted in Amin replacing Obote in 1971. The West Nile coalition narrowed drastically following the 1974 Lugbara-led coup attempt and amazingly survived for five agonizing years--supported by its tiny Kakwa-Nubian power base, Amin’s ruthlessness, and imported hired guns--until overthrown by invading Tanzanian troops and Ugandan exiles.

Less well publicized but equally illustrative of this dynamic is the radical narrowing of the ruling coalition in Burundi in the decade following Micombero’s successful coup d'état in 1966 against the Tutsi monarchy. This move can be interpreted as an attempt by the Tutsi oligarchy to reconsolidate its rule over the restive Hutu majority. Hutu parliamentary victories in 1965, followed by the killing of Hutu parliamentarians by Royalist troops, spawned rumors of Hutu coup plots which encouraged the bickering Tutsi clans to close ranks.

After the coup a northern Tutsi, Albain Nyamoya, was named Prime Minister, while Micombero, from the southern Bururi region, became President (Legum, 1974: B143). Tutsi solidarity cracked in 1971 when a clique of northern patrons failed to oust Micombero and his southern-based coalition. After thwarting the coup attempt, Micombero and his southern
coalition partners swept the Northerners from all positions of power in the government. The newly created vacancies were filled by Bahima Tutsi patrons from Micombero's home Bururi region. This division in the Tutsi camp helped spark the bloody revolt of 1972, in which Mulelist rebels invaded Burundi from Zaire, touching off a massive uprising by the Hutu majority (comprising some 85 percent of the population) against the Tutsi oligarchy (Melady, 1974). The invasion/uprising quickly degenerated into genocidal confrontations between spear and machete-wielding Hutu mobs and groups of Tutsi armed with automatic weapons. Estimates of deaths range from 100,000 to 150,000 (Lemarchand, 1989: 688) out of a population of around four million people.

Micombero, realizing that Tutsi unity was vital to his continued rule, by 1973 had reconstituted his government, evenly spreading cabinet posts among patrons of the various Tutsi clans. However, nine of the twelve seats in the key National Council were filled by Southerners from Bururi region. The following year a rivalry between southern sub-regions threatened the ruling coalition again, as powerful patrons from Rutovu (Micombero's home district) sparred with those from the neighboring Matana district for dominance within the Bururi ruling faction. The debilitating infighting of the Bururi coalition partners spurred young military officers from both Rutovu and Matana districts to mount a coup d'état against the Micombero regime on November 1, 1976. The coup, in effect, restored a working Bururi (Bahima Tutsi) coalition to power.

Thus, the ruling coalition in Burundi shrank from all Tutsi (November 1966) to southern Tutsi clans (early 1972). Despite the cosmetic Tutsi reconsolidation following the Hutu uprising, by 1974 the regime's power base had been narrowed to a coalition of Bahima Tutsi patrons from Bururi region. The Rutovu-Matana split in 1976 within the Bahima patrons proved the coalition's undoing, and indicates that the minimum ruling coalition in Burundi at that time was a grouping of southern Bahima Tutsi patrons from Bururi region.

Not all African states experienced coalition narrowing, particularly not as extreme as Uganda and Burundi, but by the early to mid 1970s enough regimes had been destabilized by coups, separatist movements, or exile invasion attempts led by excluded and uncowed patrons that ruling coalitions began to consider the need for neutralizing potential countercoalitions. Broadening the ruling coalition was seen as one means to this end.
Commonwealth

Coalition Retraction. Coalition retraction refers to the atrophying of existing patron-client ties, usually concomitant with an increase in the number and importance of the relationships between the coalition partners themselves, particularly the patrons and the Grand Patron. If "too many" patrons are brought into the coalition (and the negative fallout of coalition narrowing demonstrates that it is dangerous to expel them), then coalition retraction may result in the exclusion of clients from the distribution of some goods and devalue the political support they cede to their patrons. Long-term incumbency and drastic economic decline amplify the impact of coalition retraction on patron-client networks linking the center and periphery. Broadening the ruling coalition by drawing in more patrons via a mass, single party system or other mechanism does not necessarily arrest the effects of Riker's Size Principle and Information Effect—it may merely change the direction of the shrinkage pressure from longitudinal (excluding entire patron-client networks) to horizontal (neglecting clients while bringing in more patrons).

According to Rothchild and Foley (1988: 241), "not only must African leaders accommodate ethnoregional strongmen to compensate for their lack of regulatory capacity, but they must also incorporate them into the elite cartel to prevent the formation of a counter-coalition." They go on to present detailed accounts of over a dozen African regimes which have purposely attempted to form pseudo grand coalitions, or "elite cartels," and add that while this can foster political stability, it may not be conducive to economic growth (1988: 233). Buchanan and Faith (1987: 1031) arrive at similar conclusions, although approaching the issue from the direction of the economics of taxation and secession. They contend that

once all of the rich are within the sharing coalition, the additional entry of members who are poor will tend to be opposed. Those who are poor remain outside the sharing coalition and because they are poor, cannot readily secede.

Potential countercoalition members resisting co-optation have been exiled, imprisoned or worse.

With lengthening incumbency, members of the ruling coalition may discover that their clients in the hinterland are of decreasing importance—that what really counts is keeping on good terms with the Grand Patron. Because of the political necessity to "overextend" the coalition, there are now relatively fewer resources per patronage network to be distributed. A
general economic decline may exacerbate the distribution problem, meaning even fewer resources per patron. Patrons may decide to limit the flow of resources to their clients in the periphery in order to continue to lead the lifestyle to which they have grown accustomed in the capital, and perhaps to continue or increase kickbacks offered to the Grand Patron to insure his favor. While clinics, schools, roads, and bridges may deteriorate in rural areas, few cabinet ministers are likely to trade in their Mercedes for bicycles.

Lemarchand (1988: 154-155) notes that the privatization of state resources by the ruling elites, corruption, and the penetration of the world economy into African arenas has led to the atrophy or elimination of patronage systems. MacGaffey, pulling no punches, characterizes those at the top in Zaire as having "behaved like parasites sucking the lifeblood of the economy for their own benefit" (1988: 175). If patrons in a pseudo grand coalition no longer depend on clients' political support and thus need not share access to the center's resources, leaderless clients may opt for some degree of disengagement, "the tendency to withdraw from the state and keep at a distance from its channels..." (Azarya, 1988: 7). Lemarchand contends that once the protection of patron-client relationships is lifted, "how to avoid, circumvent, or mitigate the predaciousness of the state is the central dilemma confronting the rural masses" (1988: 155).

Omar Bongo's regime in Gabon offers an interesting example of the dynamic of coalition retraction caused by "over inclusion," economic decline, and long-term incumbency. Bongo witnessed his political godfather and predecessor, Leon Mba, unseated by Fang coup-makers in 1964, only to be reinstated by French troops (Darlington and Darlington, 1968: 126-142). Mba, himself a member of Gabon's largest ethnic group, the Fang, had split his ethnoregional base of support by, inter alia, alienating Fang cultural partisans by allegedly ordering Bibles and other books printed in Fang--as opposed to French--burned. On Mba's death the then Vice President Bongo, a member of the small, isolated Teke ethnic group, realized he stood on very narrow political footings and set out to create a broad-based ruling coalition.

Bongo, as the "Grand Patron," studiously attempted to sidestep the pitfalls of coalition narrowing by employing the country's vast oil revenue to co-opt potential opponents. He created the "Parti Democratique Gabonais" (PDG) to serve as an institutional buttress for the ruling coalition, and intimidated or neutralized potential rivals (Pean, 1983). Estuary Fang were included in the coalition via the figurehead premiership
of Leon Mebiame, while key northern Fang patrons went into exile in France. By the mid 1980s the coalition was so large that the cabinet of this small country included over 40 powerful patrons--some rumored to receive monthly salaries of several tens of thousands of dollars, in addition to special "business opportunities" doled out by the Grand Patron. Nearly as privileged were the coalition members directing the three dozen or so large (money-losing) parastatal enterprises. Important patrons from all regions, ethnic groups, religions and most key families were included in this far-flung coalition. Flush with petrodollars, Bongo appeared to have broadened the coalition while avoiding serious retraction.

Nevertheless, clients in the hinterland began to feel the pinch of atrophying patronage ties following the fall of world oil prices in 1986. While the government built the 433-mile Transgabonais Railway from the coast to Bongo's home province in the far southeast, the rest of the country's rural infrastructure began to deteriorate. In a country the size of Colorado, there were perhaps 300 miles of hard-surfaced roads--including the streets of once-gleaming Libreville. By 1988 provincial hospitals stopped performing surgery for lack of surgical silk, rural clinics received dwindling supplies of even basic medicines, schools physically deteriorated, and worse, unmaintained market roads turned to rivers of mud and bridges collapsed into ravines. Gabon's national infrastructure was quickly being reclaimed by the jungle. Meanwhile, the PDG planned a massive celebration to mark its twentieth year of rule. By the end of the 1980s it became apparent that even Bongo's Gabon, with the highest per capita income in sub-Saharan Africa, had insufficient resources to sustain a well-managed effort to simultaneously deepen and broaden the ruling coalition, and had instead opted for a pseudo grand coalition at the expense of neglected clients.

There is no particular reason why coalition retraction must be preceded by coalition narrowing. Sao Tome and Principe, for example, appears to have avoided significant coalition narrowing for reasons based on historic, ideological, ethnic, and familial factors, yet in the late 1980s it suffered from severe coalition retraction. Independence came to this archipelagic microstate only in 1975, after continental Africa had experienced over 30 successful coups d'etat, demonstrating possible dangers of coalition narrowing. The socialist leadership of the Movement for the Liberation of Sao Tome and Principe (MLSTP), having been handed the keys to the country following the leftist coup in Portugal, established itself as the sole political party patterned on the classic East Bloc model (Hodges...
and Newitt, 1988: 90-114). With a largely homogeneous population, Sao Tome and Principe (STP) has few important ethnic or clan divisions, apart from a small number of citizens of Angolan and Cape Verdian descent. Principians, although isolated, poorer, and speaking a different Creole than Sao Tomeans, unfailingly placed at least one patron in the highest echelons of the MLSTP. Finally, overlapping family connections within the ruling MLSTP contributed to curbing coalition narrowing. During the late 1980s, President Pinto da Costa's wife served as the leader of OMSTEP (the women's wing of the party), while her sister chaired the Popular National Assembly. The Prime Minister was married to the Minister of Education, while the PM's brother held the Minister of Cooperation portfolio. Almost everyone in the ruling coalition, it seemed, was related.

The monolithic MLSTP regime, while eluding coalition narrowing for reasons outlined above, by the late 1980s was unable to avoid significant atrophying of established patron-client links. Besides long-term incumbency, a major contributing factor was the collapse of the all-important cocoa sector. Cocoa exports dropped from a pre-independence peak of 35,000 tons per year to about 4,000 tons in 1988, largely due to the wonders of state-run collective agriculture, while in the meantime the international price of cocoa dropped by half.

With medicine, foodstuffs, spare parts, and clothes disappearing from the company stores of the state-owned cocoa estates, senior members of the MLSTP coalition got new cars. Over two dozen new Hyundais, a gift from the Republic of Korea following official diplomatic recognition, appeared in the capital, parked at night in front of the MLSTP patrons' homes (usually air conditioned former Portuguese colonial residences). Although Sao Tome is arguably among the least corrupt and most egalitarian states in Africa, it became readily apparent by 1989 that the "masses" were suffering mightily while their patrons in the capital, the MLSTP elite, were living better than ever. Furthermore, with Pinto da Costa defended by Angolan troops and access to the "center" restricted to the long-entrenched MLSTP Central Committee and the Politburo, the clients in the periphery appeared to matter less and less.

Using the framework of dynamic patronage coalitions, the political instability of the fifteen years or so following widespread decolonization in Africa can be attributed in part to ruling coalitions being narrowed beyond minimum winning size. During the second half of this period non-constitutional regime change became more infrequent, as rival patrons were co-opted into pseudo grand coalitions or otherwise neutralized. Economic
Commonwealth

decline and long-term incumbency amplified the impact of coalition retraction, leading to the shriveling of patron-client networks and disengagement of individuals from the state. Until 1989 the minimum winning size of retracted or pseudo grand coalitions appeared to be quite small in most cases. Very few regimes were displaced because of coalition retraction, as the response of disgruntled citizens was likely to be disengagement rather than rising to challenge the established order. Domestic democratic movements and frustrations, fueled by the demonstration effect of the “Revolutions of ‘89” in Eastern Europe, changed all that.

The 1990s: Transitory, Class-Based Coalitions?

Class identity, temporarily replacing ethnoregional or corporatist affiliations as the paramount sociopolitical cleavage in many African states, may have been stoked by the demonstration effect of the mass demonstrations by Eastern Europeans in 1989 which succeeded in overthrowing the long-entrenched single party systems in that region. Following the events in Eastern Europe, Benin, Togo, Mali, Cote d’Ivoire, Gabon, Cape Verde, Sao Tome and Principe, Cameroon, Sierra Leone, Zaire, Ghana, Congo, and other states experienced widespread social unrest leading toward (or to, in a few cases) the ending of single party rule and the implementation of multiparty democratic systems. Class identity, based primarily on anti-incumbent sentiments rather than proletarian or other solidarities, became the defining cleavage as coalitions of ruling patrons were faced by angry coalitions of spurned clients.

Schatzberg, in his “triple helix” analogy of Zairian politics, writes that “in some situations, and at certain times, one component [state, class, or ethnicity] will be dominant. At other times, in other circumstances, a different strand (or both concurrently) will come to the fore” (1988: 11). Ninsim (1988) also posits a class-based component, characterizing “intra-class” coalitions (akin to our competing patron-client groupings) as subject to constant change by coups, while polities experiencing “inter-class” struggle may witness delinking of the state and other sections of society.

The revolutions in Eastern Europe can be viewed as an exogenous event which made numerous incumbent pseudo grand coalitions suddenly smaller than minimum ruling size. The challenging class-based coalitions are perhaps best characterized as comprising not completely disengaged citizens, but semi-disengaged individuals who believed they had a future
within the channels of the state. Students, taxi drivers, the lower salariat, small shop-keepers, and other, largely urban, segments of society frequently joined together in strikes, demonstrations, and occasionally riots and insurrections to force change on the retracted elitist regimes. The author witnessed firsthand two such challenges mounted by spurned clients against entrenched coalitions of patrons those of Sao Tome and Principe and of Gabon.

In Sao Tome the first serious rumblings from angry clients came to light in 1989, when President Pinto da Costa conducted a series of town meetings throughout the archipelago. Perhaps shaken by the depth and breadth of popular discontent, Pinto da Costa convened an open Party Conference in December, 1989. The author, one of the few Westerners to attend this landmark convention, observed the assembled MLSTP Politburo unmercifully lambasted by the massed rank and file. Spurned clients, having publicly wrecked their revenge on effete patrons, successfully pressed for the adoption of a new constitution, separation of party and state, and concrete steps toward accountable multiparty democracy—in which patrons’ very positions would depend on the active political support of their clients.

Next door on the mainland, a protest by Gabonese university students against corruption in the Ministry of Higher Education erupted in January, 1990, into a week of anti-regime rioting in Libreville and elsewhere. Subsequent strikes and violence by employees of parastatal enterprises alleging mismanagement and graft paralyzed Libreville and the interior. When walkouts spread to the private sector and the civil service, the coalition moved to reconfigure its atrophied patron-client links by political means.

Bongo convened a national political conference in March, 1990, open to all factions and nascent political parties. At that conference, the author viewed angry ex-clients nearly hijack the proceedings, demanding the establishment of a fledgling multiparty system. The death of a leading opposition figure in May touched off even more serious violence, resulting in the intervention of French forces to evacuate threatened Westerners and protect French interests in the country. Sacrificing leading coalition partners on the altar of multipartyism failed to assuage the calls for change, and by September, 1990, Bongo and his coalition accepted the need for a multiparty system.

While groups of neglected clients have formed coalitions successful in bringing down pseudo grand coalitions, evidence indicates that the anti-
incumbent class identification may weaken once the political arena is again opened to other types of competition. Opponents of multiparty democracy sometimes drag out the shibboleth of "democracy leads to ethnoregionalism leads to instability," but Nigeria and other states have worked seriously to construct structures precluding narrow ethnoregional politics. Simple mechanisms such as requiring national parties to register a substantial portion of their backers in all regions may prove to be an effective broadening measure. The jury is not yet in on what types of systems might replace overthrown pseudo grand coalitions, but political accountability will hinder retraction, and clear guidelines on what constitutes a minimum winning coalition may help prevent ruling coalitions from shrinking below that size.

Conclusions

Many African regimes in the first part of the independence era were based on ethnoregional and/or corporatist ties and tended to be "overly-inclusive" at the onset due to Riker's Information Effect. Attempts to shrink to minimum winning size (Riker's Size Principle) led in some cases to coalition narrowing and political instability, as excluded and uncowed patrons formed countercoalitions to challenge the incumbents. Bringing potential rivals into the ruling regime precipitated coalition retraction, as fewer resources per patron were available to be passed on to clients--who politically mattered less and less. Clients disengaged from the state, as coalitions of "client-poor" patrons formed pseudo grand coalitions. The Revolutions of '89 may have spurred widespread social unrest by anti-incumbent strata in many African states, some of which were successful in bringing down the incumbent coalitions.

To foster political and economic development, systems need ruling coalitions that remain accountable to clients or other types of supporters (to curb retraction) and have clearly defined rules and structures defining "minimum size" to avoid destabilizing, non-constitutional challenges by countercoalitions. Multiparty democratic systems with mechanisms in place to prevent narrow ethnoregional or corporatist politics from predominating may be one solution, but there may be others as well which are now evolving in the quickly changing political landscapes of many African states. Ethiopia, for example, is embarking on a type of federalism based on ethno-linguistic provinces in order to provide an outlet for ethnoregional aspirations within the larger state system. This may serve to institutionalize
ethnoregional patron-client links, but may also exacerbate Ethiopia's centrifugal tendencies.

Finally, the author would like to suggest other regions of the world in which the framework of dynamic patronage coalitions could usefully be matched with state-society comparative approaches. This perspective seems especially applicable to political systems with infrequent constitutional regime change, long-term incumbency, declining economies, and potentially divisive geographic and corporatist patron-client networks. The case of the Peoples Republic of China appears to be a prime candidate for such analysis, as do the politics of various Persian Gulf monarchies (Crystal, 1989), Myanmar, the Russian Federation (Willerton, 1987), Indonesia, Afghanistan, and others.

NOTES

The view's expressed are those of the author and do not necessarily reflect the views of the United States Military Academy or the Department of the Army.

REFERENCES


Commonwealth


Institution and Virtue in the Judiciary

Stephen H. Wirls
Franklin and Marshall College

This essay reconsiders The Federalist's design of the Judiciary. The argument has two themes. In general, The Federalist does not neglect ambition in the case of judicial power. Rather, The Federalist presents a coherent institutional order that is fully informed by this problem. It defines the central judicial function quite narrowly and describes an elaborate constellation of influences to contain judicial will within these boundaries. This end and these means impose a very narrow scope on judicial review.

The more specific theme concerns the place of virtue in that institutional design. The Federalist's discussion of other, truly discretionary functions introduces the need for some virtue to condition judicial will in the absence of the guidance of law. This concern for virtue in relation to other powers confirms the limited scope of judicial review. Moreover, the need to secure and preserve some virtue in judges imposes further restrictions on functions and powers.

The purpose and scope of the Judiciary's power to interpret and enforce the law of the Constitution has always been disputed. Rarely, however, has the political science of the framers been employed in evaluating judicial functions. Abstractly desirable ends and powers should be evaluated in relation to the probability of good results, and the framers' political science provides various means for understanding and influencing probabilities. The powers and functions of the other branches have been studied as elements of an elaborately ordered constellation of influences. This essay will examine The Federalist's Judiciary as a complex of often reciprocally related ends, powers, functions, structural designs, and human probabilities.
Two lines of argument eventually address the review power. On the one hand, the institutional order was to secure the "steady, upright, and impartial administration of the laws" (Hamilton, Madison, and Jay 1961, 465). To that end the review power was narrowly defined and confined. On the other hand, virtue was an alternative to strictly institutional regulation for directing political action to some public good. The framers used "numerous and various" means to keep officers "virtuous whilst they continue to hold their public trust" (350). Institutional analysis must address the question of virtue as the discretion necessary to secure a public good approaches the limits of what can be secured through institutional regulation of lesser motives. The Federalist's Judiciary depended upon certain virtues, but in relation to powers that, unlike the original review authority, entailed significant discretion. The Federalist account is guided by a practical principle of reciprocity between virtues and powers: the quality of probable virtues determines what powers can be used well, and powers are critical components of the structure that will attract and sustain those virtues. The examination of virtue in the Judiciary leads to a few conclusions on the narrower question of the review power: virtue was not a concern in The Federalist's defense of this power, which supports a strict interpretation of its intended scope; the anticipated virtues would not secure a prudent use of a broad review power; and, to preserve the virtues essential to other functions, the review power must be strictly confined.

Institutional Analysis and the Judiciary

In some areas of American politics, institutional analysis has been used to locate a middle ground between formal, legal approaches and various types of what could be called realism, i.e., studies of power, influence and decision that focus on independent personal dispositions and modes of choice. Institutional analysis has returned to a dominant element in the political science of the framers, one which is especially evident in The Federalist Papers (Epstein 1984). The argument is that "the organization of political life makes a difference" and that institutions are, contra behavioralism's premise, not simply "arenas within which political behavior, driven by more fundamental factors, occurs" (March and Olsen 1989, 1).

The Presidency has been a particular focus of recent institutional studies (Bessette and Tulis 1981). Theodore Lowi argues that an institutional approach has the practical advantage of identifying workable
reforms that will change behavior and results (1985, 135-136). The structure of the office stands between motivations and power, using varied means to direct the use of power. Accountability and responsibility are structured through the design of the office in size, term and so forth. The powers, especially as they are mixed with those of other institutions, both stimulate action and regulate it by ordering rewards, punishments, and inter-institutional disputes.

The institutional order can be a prudent substitute for an exacting definition of powers, providing for a more fluid, dynamic relationship in trust and distrust between the various parties, thus allowing powers to fluctuate within "a horizon of law" (Besse and Tulis 1981, 27-29) without allowing any particular instance to establish a ruling principle. In other words, institutions can cut short the logical reach of principles and doctrines and allow for less rigid results, thereby accommodating variations in circumstances and in human capacities and qualities (March and Olsen 1989, 55-56; Mansfield 1989, 274, 278).

In the abstract, this would seem to be a valuable perspective to bring to the Judiciary, and especially to the review power. Yet the apparent disproportion between the institution of the Judiciary and this power poses a number of problems. As a comparison: no matter how the Presidency's powers are understood in principle, principle does not rule. These powers are in most cases open to Congressional influence, and principle is but one element in a more fluid, practical--and constantly disputed--ordering of ambition checking ambition. The Judiciary's form and powers free it from the direct influence of other branches: its powers are not mixed with other branches; the mode of appointment and life tenure free it from accountability; the criteria for and clumsy process of impeachment restrict its use as a regular means of control. Institutional elements seem neither to define a limit on the scope of any power nor to provide modes of limiting in practice the reach of any doctrine or principle. Specifically, the power to interpret and enforce the Constitution as law defines a role so comprehensive, so enticing to ambition, as to undermine the constitution of a court of law. The structure seems to speak of an exceptional trust in this "least dangerous" branch (Hamilton, Madison, and Jay 1961, 465). Otherwise the power of review would be thoroughly misplaced, considering the prominent skepticism concerning better motives and the specific concern over ambition in the political science of the framers (Agresto 1984, 65-67, 164-167; Perry 1982, 126-128). It seems that either the institution is
incoherent or that institutional regulation has been replaced by an inexplicable reliance on virtue.

"Brutus," an anti-Federalist critic of the constitutional plan, spells out the reach of the review power in principle and the probable effects of that power on judicial disposition and comportment. Equal and independent branches require a source of power superior to them all. The Judiciary, however, has the power to "decide upon the meaning of the constitution ...according to the natural and ob[vious] meaning of the words" and, from its common law or equity powers, "also according to the spirit and intention of it" (Storing 1985, 185). So while Congress "can only exercise such powers as are given [it] by the constitution," the Judiciary can "control the legislature" because it can "determine what is the extent of the powers of the Congress" (185). In sum, the "judges are supreme--and no law, explanatory of the constitution, will be binding on them" (186).

Brutus sees, in the absence of any intrusive check, no institutional influences on dispositions and decisions that would limit in effect the use of the power to interpret the Constitution. Even if explicit authority was not extended to interpreting spirit and intention, those limits would be parchment barriers. Consequently, ambition will tend to redefine the role, and destroy the constitution, of a court that is "independent of the people, of the legislature, and of every power under heaven" (183).

On the one hand, Brutus could be accused of having a deficient conception of institutional regulation. One function of and case for institutions is that they "increase capability by reducing comprehensiveness"; by "inhibiting the discovery of and entry into some potential conflicts, a structure of rules organized into relatively discrete responsibilities channels political energies into certain kinds of conflicts and away from others" (March and Olsen 1989, 17, 24, 27). Institutional structures can establish roles, "rules of appropriate behavior," and "duties and obligations," not only by "direct coercion," but also by using what is "internalized through socialization or education" (3, 22). Of particular interest are "standards of professions," the "expectations of patrons," and trust based on "appropriateness more than a calculation of reciprocity" (30, 38). Role and identity help limit the scope of conflict and deliberation: "actions are fitted to situations by their appropriateness within a conception of identity" (38, 23, 160-162). Identity and role can be defined so that they are more or less commensurate with the probable skills of personnel.

An institution that exercises what March and Olsen call "integrative" functions must deliberate about common or communal goods.
Commonwealth

and principles rather than the mere aggregation of interests. Such functions, especially when assigned to an institution that is independent of the most potent modes of accountability and regulation, raise a particular concern over qualities of character. Judges must act in accord with duty and principle rather than in response to interests of others or their personal ambitions (114, 118-119).

According to March and Olsen, the institutional structure of courts necessarily involves the problem of "competence and integrity" or virtue (126-129, 131-132). However, as Brutus argues, while the independence of the judiciary is essential to a strict association with the law, it may, when joined with the review power, create a role or involve judges in broader conflicts that will be attractive to ambition; good use of this power would require a rare prudence and integrity. Brutus assumes that the institution will not foster the virtues necessary to master ambition and guide deliberation to the public good.

As we shall see, all of the institutional aims and elements mentioned above are present in Hamilton's explanation of the Judiciary's elaborate institutional design. The question is, in the face of Brutus's criticism, whether and how they are assembled into a coherent institutional order.

The General Constitutional Principles

While the framers organized selection and tenure to increase the probability that certain positions would be filled by the more skilled and virtuous, they did not rely on the continuous presence of "enlightened statesmen" let alone a "philosophical race of kings" or some other disinterested regulator of political order and power (Hamilton, Madison, and Jay 1961, 80, 218-219, 315). Consequently, the institutional order attends to the "defect of better motives." Because the main danger is the spirit of ambition, so ambition "must be made to counteract ambition," and institutional arrangements must turn "the private interest of every individual" into "a sentinel over the public rights," i.e. the powers of his institution (322). Public office can engage and use personal interest and ambition to assert and defend an institution's public rights as the source of power, prestige and, possibly, fame. The need for defense reflects the simple fact that desires and passions will not respect "parchment barriers." That grasping nature would seem to necessitate, as Brutus argues, access by other institutions to decisions that might affect their powers.
The Federalist also explains how thoroughly the Constitution was shaped by the obscurity of divisions of function and power, and by problems of following the logic of any one principle. The Constitution had to institute the proper balance between competing goods, each of which will have its imprudent partisans (Hamilton, Madison, and Jay 1961, 34-35). Stability, requiring longer terms, and energy, requiring a "single hand," compete with "liberty" and "republican form," requiring shorter terms and many more hands or voices. Each is essential to safe and good government, but any one carried to its full extent would preclude incorporation of the others (224-231). Moreover, full implementation of any one principle would liberate human proclivities that are dangerous to all political good. Abstractly beneficial powers are blended, given only in part, not only to check abuse but also to direct ambition to pursue, if without full authority, important goods. A fine example is the president's power to recommend legislative measures. More to the point, the rule of law, if followed to its extreme, would establish the Judiciary as the authoritative and comprehensive interpreter of the Constitution as a whole. The degree to which this principle is put into practice depends upon, among other factors, the practical costs of treating the Constitution as ordinary law and the probabilities that the power necessary to implement the principle will be exercised well.

If the only behavioral maxim informing these practical constructions were the probable "depravity" of human beings, then the inference of an unusual, and perplexing, trust from the unmixed powers of an independent Judiciary would be plausible. But the framers also relied on "other qualities in human nature which justify a certain portion of esteem and confidence" (Hamilton, Madison, and Jay 1961, 346). The guarded phrasing indicates that these "other qualities," which may be evident in private individuals, do not, in themselves, justify a trust of those in office.

The aim of every political constitution is, or ought to be, first to obtain for rulers men who possess most wisdom to discern, and most virtue to pursue, the common good of the society; and in the next place, to take the most effectual precautions for keeping them virtuous whilst they continue to hold their public trust.... The means relied on in this form of government for preventing their degeneracy are numerous and various (350-351).
Commonwealth

This consideration upsets the inference of some general trust and urges a more precise search for those qualities and for the circumstances in which they could "justify a certain portion of esteem and confidence." We should expect the constitution of the Judiciary to be an elaborate mix of ends, means and materials.

Judicial Review and the Judicial Function

The Judiciary is "described by landmarks still less uncertain" than any other branch (Hamilton, Madison, and Jay 1961, 310). Hamilton's over-arching purpose in Federalist 78 is a defense of an exceptional judicial tenure as essential to, most generally, the "steady, upright, and impartial administration of the laws," of which judicial review is an extraordinary dimension (465). The character of the primary and ordinary function or end, and the means of institutionalizing it, dominate the whole and, in particular, define and control the scope of judicial review.

The Judiciary is very susceptible to being "overpowered, awed, or influenced" by the more popular and powerful branches. The menace of ambition, "encroachments and oppressions," comes from the other branches and especially from the legislature. Control over the laws, the purse, and the sword will excite ambition, and meaner passions. Popularity opens legislative deliberations to the influence of "ill humors in society." Only judges with permanent tenure could be expected to have the "firmness," "independent spirit," and "fortitude" necessary to the proper administration of the laws (Hamilton, Madison, and Jay 1961, 466, 469).

Hamilton does not argue that the dispositions of those who are or will be judges is distinctive. The Judiciary will be "least dangerous to the political rights of the Constitution" because it is "least in capacity to annoy or injure them" (Hamilton, Madison, and Jay 1961, 465: emphasis added). Rather, the Judiciary's weakness and permanence turn its spirit or ambition inward, to defend and to gain satisfaction from its function as a court of law. Weakness helps enforce a role and modes insofar as little can be gained from corrupting the law (Epstein 1984, 191). Thus, what insures that the Judiciary will not "in any sensible degree ...affect the order of the political system" is not only the incapacity to execute an "active resolution" but also, and consequently, "the general nature of judicial power, ...the objects to which it relates, ...the manner in which it is exercised" (Hamilton, Madison, and Jay 1961, 484-485). Hamilton argues that confidence in judicial comportment depends on these constituents of the
general judicial role and institution. He implies that these constituents are fairly narrowly defined and reciprocally related. Altering them would alter the tendencies in behavior.

The Judiciary was not fortified by additional, mixed powers, as was the Presidency by, for example, the veto which both protects the office against usurpation and involves the president in legislative deliberations. Judicial participation in a council of revision, to fortify and otherwise aid the executive in reviewing legislative acts, was rejected by the Constitutional Convention. Those arguing for judicial participation sought refinements in the technical qualities and the justness of the legal code. The most prominent, and apparently decisive, objections were that judges are not generally qualified for statesmanship and policy judgments, and that both the judges and the public confidence therein will be corrupted by involvement in partisan and policy disputes (Farrand 1966, v.II, 73-80, 298-300). On the other hand, Hamilton compares the very peculiar skills appropriate to judging to the probable qualities and habits of legislators (Hamilton, Madison, and Jay 1961, 483). These ends—securing the benefits of those peculiar skills and maintaining the properly judicial dispositions and deliberation—must control the type and scope of functions, of powers, and thus the nature and scope of disputes subject to judicial resolution.

The institutional order must insure that in the exercise of judicial power "nothing would be consulted but the Constitution and the laws" (Hamilton, Madison, and Jay 1961, 471). But how are the institutional elements to be maintained in the right balance, especially as the Constitution's presence within the judicial purview seems to explode potentially neat and confined order, both in theory and in practice? With one exception, though, Hamilton's explanation of judicial review consistently has the ordinary judicial function imposing a very narrow range on Constitutional adjudication. A careful look at this discussion must precede the examination of the other institutional elements.

Because Hamilton is defending judicial review against Brutus' concerns about judicial ambition and supra-constitutional domination, his explanation of the "true doctrine" may seem almost fatuous. But this doctrine is not the sum of his defense. Moreover, this doctrine can be forceful in a variety of ways. The general grounds on which it rests—that all acts of agents exceeding the "tenor of the commission" are void—denies both judicial and legislative superiority by subordinating them to the extraordinary will of the people as expressed in the Constitution. While it establishes a formal foundation for judicial review by elevating the law of
Commonwealth

the Constitution over acts of the no longer sovereign legislature, it also asserts the equality of the branches (Snowiss 1990, 77; cf. Wills 1981, 128). It helps establish the Constitution as a central element in the discourse of ambition counteracting ambition, and it both supports and qualifies resistance to judicial ambition by other institutions and ultimately by the people. Though Hamilton reaffirms Brutus' constitutional theory, he must address the potential inequality from judicial interpretation superceding legislative interpretation. He does this by defining powers and constructing controls in accord with the Judiciary's ordinary functions and limited competence.

However, the general point about constitutionally invalid laws does not define the purview of the Judiciary. At only one point does Hamilton seem to speak broadly, noting that "interpretation of the laws is the proper and peculiar province of the courts," that judges should regard the Constitution as a "fundamental law," and that it "therefore belongs to them to ascertain its meaning" (Hamilton, Madison, and Jay 1961, 467). But even here he speaks more precisely of the Judiciary as an "intermediate body between the people and legislature," of "limits assigned to [legislatures'] authority," and of a standard of "irreconcilable variance." Moreover, every other part of the discussion indicates that the specific power of judicial review is not as broad as its general foundation.

In general, the legislature's "construction of its own powers" is not "conclusive upon the other departments." This statement also embraces the president's veto as a mode of enforcing constitutionality. The judicial power to void laws does not encompass the whole Constitution but only specific Constitutional provisions that are compatible with the ordinary objects and modes of the judicial function.

Indeed, Hamilton compares the act of voiding an unconstitutional statute to the common, narrowly discretionary act of ignoring or voiding the older of two contradictory statutes (Hamilton, Madison, and Jay 1961, 468-469). Judicial review raises no concerns for judicial power beyond those raised by ordinary adjudication. Its proper exercise, it seems, requires no additional or exceptional skills and qualities of character. This conclusion makes sense only if we attend to the rest of Hamilton's explication with care. Hamilton ends his discussion of the review power with a description that is similar to that with which he began: the courts should be "bulwarks of a limited Constitution" (469, emphasis added; also 482-483). The scope of the review power depends upon how those limits are defined.
A "limited constitution" may require a power of judicial review. But a limited constitution is one containing "specified exceptions" to the legislative authority:

Limitations of this kind can be preserved in practice no other way than through the medium of the courts of justice, whose duty it must be to declare all acts contrary to the manifest tenor of the Constitution void (Hamilton, Madison, and Jay 1961, 466, emphasis added).

The "manifest tenor" does not seem to be left open to much interpretation; the "specified exceptions" define what are the judicially cognizable "bounds to the legislative discretion" (483). The authority to void a statute is engaged only when a court faces an "irreconcilable variance" between that statute and one of the "reservations of particular rights or privileges" in the Constitution, such as the prohibition of ex-post facto laws. Hamilton confines its purview to clauses that are textually specific, that require only ordinary, if specifically, judicial skill to interpret, and that confine constitutional adjudication to the ordinary judicial realm of disputes over the legal rights of individuals. By implication, questions concerning the construction of affirmative grants of power are excluded from judicial consideration. Later, Hamilton distinguishes between what is not authorized and what is forbidden, and apparently assigns regulation only of the latter to the Judiciary. This would confine judicial scrutiny to the restrictions in Article I, Sections 9 and 10, while leaving the powers in Section 8 to be regulated by other institutions and orders.

Elsewhere, notably in the 33rd paper, The Federalist does not mention the Judiciary as the corrective for the misuse of broad legislative powers, even though the intention is clearly to ease any fears about such powers. The government's "constituents" are the final judges: they will "appeal to the standard they have formed" and take "such measures ...as the evidence may suggest and prudence justify" (Hamilton, Madison, and Jay 1961, 203). The argument, especially in relation to taxation and defense, is that these powers must be open to discretionary latitude because they must address circumstances of indefinite force and scope. They should not be refined into precise law as such (167; also papers 24-26 and 31 generally), but are to be regulated by the constituted character of the relationships between President, House and Senate, by the federal structure, and by
popular resistance to "unwarrantable measures" (297-298, 300; Wood 1969, 538-543).

Against the charge that Congress could, for example, use its broad taxing power to restrict the press, Hamilton argues that this liberty "must altogether depend on public opinion, and on the general spirit of the people and of the government." More generally, "legislative discretion, regulated by public opinion," is the "only solid basis of all our rights" (Hamilton, Madison, and Jay 1961, 514-515; cf. Snowiss 1990, 43). Generally overlooked in discussions of the original review power is Madison's argument, in Federalist 49, against Jefferson's proposal for instituting periodic constitutional conventions to correct imbalances of powers. Madison accepts Jefferson premise of co-equal branches and does not propose the apparently obvious alternate native of judicial regulation. The Federalist's alternative is the system of checks and balances, introduced in the following two papers, in which the Judiciary has almost no part.

Hamilton does not seem to be cleverly tailoring sheep's clothing for the Judiciary. His aim is to preserve the integrity of the ordinary judicial function which makes a critical contribution toward developing in individuals a general confidence and a sense of obligation (Hamilton, Madison, and Jay 1961, 108, 110, 111-117, 120, 303). The Federalist distinguishes the elements to be regulated by the scheme sketched in the 51st paper from the elements that are properly judicial. The latter are confined, on the whole, to those textually specific clauses that are, and can be defended as being, closely related to ordinarily judicial disputes about individual rights and injuries, requiring only ordinary judicial qualities to manage well (cf. Wills 1981, 140-150, 157).

Moreover, precisely because these "specified exceptions" concern individuals, violations thereof would be less likely to engage the other regulating forces. They require another, more responsive guardian. For the same reason, these clauses, unlike the grants of powers, are remote from the main objects of the pride, ambition and deliberation of the stronger branches. Federalist 78 explains the extraordinary provisions to secure judicial fortitude even in this limited range of disputes. Elsewhere in The Federalist doubts are expressed about judicial fortitude when deliberating in areas of greater discretion and in partisan disputes involving the stronger branches. As we shall see, Hamilton speaks of a very conditional trust in the wisdom and virtue of judges. The review power was designed to be in accord with ordinary judicial modes and skills and to avoid corrupting the institutional ordering of judicial modes and dispositions.
Discretion, Depravity and Virtue

While we might infer from this narrow definition of the Judiciary's constitutional purview that this institution is shaped by the skepticism about human motivations and qualities so prominent in rest of the Constitutional order, such circumspection is made explicit where Hamilton ascends from functions strictly subordinated to the law to those more discretionary or constructive. The defense of these other judicial functions is grounded not simply on weakness and a directed spirit that supports "fortitude" but also on virtues which will direct deliberations that reach beyond the law.

To address the problem when "occasional ill-humors in society" injure "the private rights of particular classes of citizens, by unjust and partial laws," Hamilton promotes a function that entails judicial will: judges can and should mitigate "the severity and confine the operation of such laws," but only in individual cases (Hamilton, Madison, and Jay 1961, 470, 483; Wood 1969, 458). This judicial intervention will have the broader effect of "moderating legislatures," but through particular instances of frustration. Though private rights are involved, such laws are not, or are not specifically, unconstitutional and do not engage the power to void a law.

If the argument above is correct, Hamilton has formalized the definition of unconstitutionality that engages the review power.

The problem of abuse of powers by majority factions is addressed in Federalist 10's argument concerning size and diversity. In Federalist 78, Hamilton defines the only remedy proper to the Judiciary. Yet this judicial "mitigating" will not be guided by law. Though judges are not authorized to convert these rights or the general principles of justice and impartiality into Constitutional law, they must use them to guide their judgments. We should expect some discussion of qualities of character that would condition these exertions of will to serve a public good. Hamilton in fact speaks of "integrity and moderation." Attracting and fostering these virtues depends upon some particular conditions.

It does not seem to be incidental that at this point Hamilton discusses the "esteem and applause" from the Judiciary's proper partisans, the "virtuous and disinterested" (Hamilton, Madison, and Jay 1961, 470-471). Political institutions will attract as partisans those whose interests might be served by it, and partisans can encourage and repay the favor with support and praise. On the one hand, this is a dangerous relationship because partisan aims are often driven by interest and passion, and partisan applause can, by satisfying vanity and a love of praise, undermine
in institutional regulation by encouraging a change of ends, roles and appropriateness, thus the object of integrity. On the other hand, this interaction can be salutary. The love of fame, the "ruling passion of the noblest minds," is the passion most readily associated with virtue and the public good (437, 111).

The love of fame is more appropriate in a president, who must be an "energetic" executive and can, in pursuit of fame, serve the public good through "extensive and arduous enterprises" (Hamilton, Madison, and Jay 1961, 414, 423, 437). It is less appropriate in an institution that is to be moderate and must be discouraged from attempting "active resolutions." Hamilton, nonetheless, indicates the importance of using and managing a love of applause and praise. Minimally, this disposition ties the calculations of ambition to opinion, to enduring opinion, and so to actions that will merit praise beyond the moment and upon reflection. If the institutional order can attract the right audience, it can use applause to bolster the appropriate virtues, which will, in turn, influence discretion. In sum, fostering effective virtues depends upon managing the reciprocal relationship between the nature of the audience and the powers, qualities and dispositions of the officials.

While Hamilton anticipates the applause of the "disinterested and virtuous," he adds that of "considerate men of every description" who have an interest in supporting judicial integrity and moderation: "no man can be sure that he may not be tomorrow the victim of a spirit of injustice, by which he may be a gainer today" (Hamilton, Madison, and Jay 1961, 470). This interest is common to all citizens, even those who might, in relation to the other branches, be strongly partisan. By confining an institution's utility or benefits, the institutional order, in a sense, selects the motive for applause and so the character of the audience. Assuming that no greater passion or advantage from irregular judicial activity overwhelms it, self-interest rightly understood should lead citizens to forgo immediate advantages and to support a properly judicial character.

This is The Federalist's only use of the term "moderation" to describe the disposition of an institution. The Senate is described as a "temperate and respectable body of citizens." That similar quality is, as with the Judiciary, closely connected to the institution being "well-constructed," particularly in relation to duration in office and responsiveness to popular will. Consequently the Senate "may be justly and effectually answerable for the attainment" of "objects that require a continued attention, and a train of measures" (Hamilton, Madison, and Jay 1961, 384). This
responsibility will lead it to temper the more popularly responsive House. Similarly, a moderating disposition in the Judiciary is fostered through its independence, its peculiar modes and responsibilities, and its audience.

Integrity is, it seems, a more personal quality. In The Federalist, "integrity" is directly related, in proximity and use, to "virtue." Both are regularly paired with the other general qualifications: wisdom, talents or abilities (Hamilton, Madison, and Jay 1961, 391, 458-459). They seem to be all but synonymous. Both integrity and virtue, but especially integrity, denote the requisite quality of character when powers entail greater, and less observed, discretion. This is evident in the distinction between a president's "deviation from the instructions of the Senate" and "a want of integrity in the conduct of negotiations committed to him" (406). It seems to be the quality of character or disposition that directs deliberation to pursue the public good or, more precisely, to uphold in practice the public purpose of one's office and responsibilities against personal and partial interests (431-432). Integrity is, therefore, closely related to honor and duty.

However, integrity is not a very reliable means of regulation. It can fail due to "honest errors" from ignorance and misconception. While a selection process may be designed to secure men with a "reputation for integrity" (Hamilton, Madison, and Jay 1961, 391, 414), "interest" can "corrupt ...integrity" (79). A "stern virtue," later called "integrity," that "could neither be distressed nor won into a sacrifice of duty" is "the growth of few soils" (441-442). Integrity must be guarded from "degeneracy" by ordering punishments, by limiting and mixing powers, and by eliminating occasions and incentives for corrupt calculation (441, 451, 457-458, 459, 473, 501). The office must be given sufficient value, through powers, honor, and the potential for reaping the rewards of integrity, among which are gratitude and fame (431-432, 434-435). Integrity is, obviously, a disposition of some force. But it can be relied upon only under fairly complex institutional controls.

If ambition is concomitant with public power, then securing the desired portion of moderation and integrity in this independent institution would depend to some degree upon its weakness, upon a limited scope of disputes and deliberation, and upon its incapacity to form a broader, "active" resolution. Otherwise new avenues would be opened to judicial ambition, and courts would tend to become a point of contention for passionate and in-terested factions, the applause of which would support partial and irregular uses of its power. Weakness and the institutionalized focus on ordinary judicial functions and modes help define audience, and
the audience's applause re-enforces the proper modes, duty, and integrity. Under these conditions, it seems, Hamilton has confidence in the strength of modest virtues to condition the use of this limited discretion.

The virtue of integrity returns, and the demands upon it increase, in Hamilton's discussion of the most discretionary and constructive function to be performed by the highest court. Hamilton's discussion speaks clearly about the limited trust in this modest virtue:

To avoid arbitrary discretion in the courts, it is indispensible that they should be bound down by strict rules and precedents which serve to define and point out their duty in every particular case that comes before them...[T]he records of those precedents must unavoidably swell to a very considerable bulk and must demand long and laborious study to acquire a competent knowledge of them. Hence it is that there can be but few men in the society who will have sufficient skill in the laws to qualify them for the stations of judges. And making the proper deductions for the ordinary depravity of human nature, the number must be still smaller of those who unite the requisite integrity with the requisite knowledge (Hamilton, Madison, and Jay 1961, 471).

Hamilton reminds us that the judges for whom he had just defended some latitude of will are nonetheless susceptible to "ordinary depravity"; earlier he had mentioned the dangers of "individual oppression" by judges in particular cases (466). The general remedy is to bind them closely to the law. The distinctive function of the highest appellate court, one which departs from functions and modes of an ordinary court of law, is to order particular interpretations into a coherent system of law that shall be used to regulate the lower courts. The origin of this function lies not only in the need for a "uniform rule" (150, 476, 494) but also in the imperfections of all general laws; they must be "considered more or less obscure and equivocal, until their meaning be liquidated and ascertained by a series of particular discussions and adjudications" (229).

The discretionary latitude to distil and enforce general rules of law is exceptional, and it requires rare skill and a higher degree of integrity. The professional training necessary to acquire the requisite wisdom for this most demanding of judicial functions may also help define the duty. But
Hamilton distinguishes wisdom and integrity. Professional training, as such, does not necessarily instill or preserve an integrity commensurate to that duty. Integrity, in this case, must support the labor, discipline and judgment required to order a "very considerable bulk" of precedents into coherent principles and rules, and to enforce those rules consistently.

Moreover, a high degree of integrity is necessary not only because the this power has a general effect on law and its administration, but also, and especially, because the exercise of this power is less open to scrutiny and informed appraisal. Unlike moderating unjust laws in specific cases or voiding a law that violates a specified exception, this function entails myriad fine judgments concerning a mass of complex and arcane precedents. Few will have the requisite wisdom and disposition to scrutinize these judgments. The proper exercise of this authority, less observed or observable, apparently depends upon the unusually strong influence of what Hume calls "an inward peace of mind, a consciousness of integrity" which is "very requisite to happiness" (1946, 123).

Four points in Hamilton's discussion should be stressed. First, designing or evaluating any one element of an institution requires careful consideration of the many reciprocal relations between functions, powers, audience, skills and virtues. Second, where judicial activities depart from the strict guidance of law, the virtues necessary to such a function must be identified, and the institution, through its various means, must foster those virtues. Third, that this last function rather than judicial review is the most unusual and demanding is indicated by Hamilton's concern for the rare skill and virtue essential to securing beneficial results in fact. Conversely, Hamilton's attention to depravity, skills and virtue in this case indirectly confirms the limited scope of judicial review, the discussion of which raised none of these worries.

Finally, The Federalist counsels low expectations; though the virtues upon which some judicial functions depend are not, abstractly understood, extraordinary, they are nonetheless rare in human beings and difficult to sustain against the passions and temptations which accompany public power and responsibility. Although the regulatory function of the highest appellate court will entail some recourse to general standards of justice and the common good, such recourse will be limited by the dominant place of ordinary law in its deliberations and by the strict confines of that court's constitutional purview. In any case, this function does not assume the more extraordinary integrity and political prudence that could justify a broader review power, one that entails an expansive discretion concerning
the most fundamental questions of justice and political order. In general, the Constitution and The Federalist do not establish or promote powers or functions that depend for good results upon the accidental presence of simply exceptional virtues.

Hamilton's account of the constitution of the Judiciary is coherent. It exemplifies the framers' intricate institutional management of competing goods and human probabilities to the end of safe and good government. Their general aim was to secure the "steady, upright, and impartial administration of the laws." Every point is informed by a skeptical attitude toward human character and dispositions (cf. Howe 1897, 500-501). For the sake of good administration of the law, the Judiciary was made independent of shared powers, intrusive checks, and the "most effectual" control through limited terms securing "proper responsibility to the people" (Hamilton, Madison, and Jay 1961, 351). Nonetheless, a constellation of influences was designed to focus the judicial spirit on its strictly judicial modes and ends, and to regulate discretion through carefully fostered virtues.

Institution and Virtue in Contemporary Jurisprudence

The framers seem to have overestimated the capacity of this institutional order to maintain the distinction between judicially proper and improper parts of the Constitution. They seem to have underestimated: the latitude for will and creativity within the given functions; the genius of John Marshall (Snowiss 1990, chap. 5); the tendency of Congress to "abdicating all final responsibility to the Judiciary" (Corwin 1987, 62); the effects of public confidence in judicial integrity; and the influence of new doctrines from new, interested, audiences. Hamilton certainly anticipated problems with less than specific "exceptions" in a bill of rights, and his analysis helps illuminate problems posed by new doctrines which often promote thoroughly discretionary and constructive functions.

The Federalist's understanding of constitutional adjudication both simplifies and complicates the prescriptions of originalists or strict interpretivists, who also point to the importance of doctrine in, for example, defining the audience and the aim of applause. On the one hand, their emphasis on the text of the law parallels The Federalist's understanding of the judicial function and mode. But they must strain somewhat to derive original, yet workable, prescriptions from the various constitutional provisions (Levy 1988 and Bork 1990, chap. 7). The Federalist's account
Stephen H. Wirls

eliminates some of these problems by further radicalizing the program, as the Judiciary was not authorized to give more precise legal meaning to the general powers. On the other hand, originalists must depend, not upon a modest virtue within a constellation of regulating forces, but upon a self-imposed restraint, a higher integrity that would move the cat to put itself back in the bag.

The Federalist's practical reason poses various challenges to creative or non-interpretivist approaches. Many such arguments promote high and highly discretionary functions. While these functions may be derived from the ordinary function of protecting individual rights, they are nonetheless directed by thoroughly disputable theories or personal judgments about political and human well-being. It matters little whether these arguments are based on the defects of an outmoded Constitution or on general and comprehensive ends such as justice, moral growth, dignity, autonomy.

Michael Perry's writings are good examples because they have tried both to tie judicial deliberations to the Constitution and to bring the judicial function into accord with various elements of the framers' constitutionalism. In his later work, however, the text of the Constitution becomes a signifier of "aspirations" in the "American political tradition." Moreover, only "some provisions are symbolic of fundamental aspirations," not all of the aspirations are "worthwhile," and these aspirations are "indeterminate" (1989, 72; 1988, 133, 135). A judge must be selective and "should rely on her own beliefs as to what the aspiration requires" (1988, 149; the emphasis is Perry's). Perry's argument raises the problem of skills and virtues to guide this broad discretion, but his dependence upon a very sophisticated "self-restraint" merely begs the question (1988, 170-172).

Indeed, the first step toward defining judicial powers might be an explication of necessary and abstractly desirable functions. But both a functional defense of non-interpretive review and a conceptual link between an ordinary judicial function and some discretionary, constructive power--between ordering legal principles and developing moral principles--must account for the effects these activities will have on attitudes, dispositions and other functions. They must also account for the probability of sound results, i.e., for common human deficiencies and the capacity of an institutional arrangement to attract and foster with regularity the skills and virtues necessary to guide the exercise of such responsibilities toward good results in fact.
The difficulties evident in a comprehensive view led the framers to modest functions and powers. As the Judiciary moves beyond those limits, virtue becomes all the more critical and problematic: the institutional influences on powers and spirit are weakened, and discretionary judgment must address highly delicate and complex practical and moral questions. The character truly fit for such tasks would necessarily embrace an extraordinary degree of philosophical sophistication, moral wisdom, practical wisdom, courage and moderation. Put another way, new doctrines, powers and responsibilities move judges outside of the institutional context that could sustain appropriate virtues and habits while controlling the growth of new audiences and ambitions.

Though more from a concern over the undemocratic nature of judicial rule than for any deficiency of skill and virtue, Perry has, in an earlier work, turned to institutional checks in order to bring extraordinary judicial power into accord with the constitutional system. However, this remedy would probably tend to discourage the desired exercise of that power. Perry promotes, in particular, Congress's control of appellate jurisdiction (1982, 128-139). But for Congress to use this check in a deliberately Constitutional manner, rather than solely against wildly unpopular decisions, it would have to adopt doctrinal and institutional conceptions closer to those Hamilton describes. However, this unlikely development would, if Hamilton's reasoning is correct, tend to turn the judicial spirit away from the creative, discretionary functions being advocated.

Moreover, the introduction of truly proportionate checks would undermine some of the original plan's aims. Hamilton argues that independence from democratic and ambitious intrusions is essential to securing not only rule of law in fact but also a popular confidence in judicial integrity that fosters a general sense of obligation. Engaging intrusive checks against broad discretionary authority, involving the Judiciary more directly in highly passionate disputes with all the maneuvering and hedging they entail, would tend to corrupt dispositions and erode confidence in judicial integrity.

We may have seen such results in recent confirmation battles, which have focused on the specific policy outcomes of some of the more creative rulings. The skills and virtues necessary to resolve delicate and disputable moral and regime questions are rare in themselves. But they are surely not dis-coverable or dispositive in a selection process reflecting the highly politicized nature of the very functions that require those virtues. It
may also be that the process can no longer deliberately seek and promote more modest qualities such as legal wisdom, moderation, and integrity.

Institutional checks were not, in the main, grounded in democratic principles as such but rather in a sophisticated, prudent understanding of human dispositions. Some parts of that understanding justified extensive mixtures of powers. But insofar as there are "other qualities in human nature which justify a certain portion of esteem and confidence" (Hamilton, Madison, and Jay 1961, 346), intrusive checks or even manipulation of personal interests to serve public goods are not the only means of regulating the use of power. And insofar as good republican government requires more than well-checked powers, those other means must be employed. In some cases, therefore, the framers aimed at more than damage limitation and indirect service to the public good. Good government requires deliberately constructive responsibilities that, in turn, require unusual skills and qualities of character to direct discretion toward the public good. The most important practical limit is the capacity of institutional orders to sustain those qualities or manage their absence.

NOTES

I thank the Department of Government and the College for granting me a leave of absence and the John M. Olin Foundation for generous support through its Junior Faculty Fellowship Program.

1. On civic virtue and the republican tradition in American politics and thought see Bailyn (1968), Mood (1969), Pocock (1975). For a fine critical review of the arguments, see Pangle 1988, Chapter 4. Wood (483-499, 506-558, 610-615) discusses the transition from republican virtue to the virtues of a "natural aristocracy" or elite, but not the very limited trust and the finer institutional means of regulation.

2. See also Vile 1967, 7-9. March and Olsen (1989) draw heavily on very general patterns of behavior with, in the main, bureaucratic orders as their focus. Consequently, they do not address in any detail the central problem of the framers; regulating unusual ambition in positions of rule.

3. Snowiss (1990) explores this influence of the doctrine of equal branches on the scope of the review power, as well as the early relationship between promotion of review power and presence and absence of
Commonwealth

other checks on the legislature (15-16). But she sticks, in the main, to doctrinal questions and does not pursue the problems of ambition, discretion, and virtue or the particulars of institutional design (64-65, 102).


5. "In the smallest court or office, the state forms and methods, by which business must be conducted, are found to be a considerable check on the natural depravity of mankind" (Hume 1985, 24 ("That Politics May be Reduced to a Science").


7. Consider the peculiar "connection" between the Senate and the Presidency (Hamilton, Madison, and Jay 1961, 323) in relation to the veto. Hamilton argues that exceptional tenure is necessary to support the Judiciary as a "faithful guardian of the Constitution," but it does not follow that it is the comprehensive or exclusive guardian. For example, consider the presidential oath. And elsewhere, Federalist speaks of the people as "natural guardians of the Constitution" (117).

8. Snowiss rests much of her similar case on doctrine, on the theoretical distinction between ordinary law (which restrains individuals) and fundamental law (which restrains political power). The latter is inherently political and closely related to the social compact and to revolution (1990, 28-34, 73). Any judicial review, then, is exceptional, related to natural law, and not confined to specific provisions (59-63). But as she admits, Hamilton's account has a strictly positive foundation (72, 78). It does, I argue, confine constitutional purview to specific provisions, and this account rests more on practical questions of judicial competence, virtue, trust, and institutionalized restraint on the one hand, and legislative discretion and regulation on the other. Snowiss does discuss the practical question weakness (1993). The importance of such considerations are suggested by her stress on a standard of uncertainty, the "doubtful case" rule (38, 42-43, 57-58), and the distinction between explicit provisions and written provisions (71-72, 78, 81-82).

9. See also Farrand 1966, II 376. For a parallel discussion of "evident opposition" and "manifest contravention of the articles of Union"
as the basis for voiding state laws, see Hamilton, Madison, and Jay 1961, 475-476.

10. See Epstein (1984, 44-45, 187-89) for this and the following point. He uses this reading to account for the otherwise astoundingly negligible function of the Judiciary—thing beyond mere self-defense—in the system of checked and balanced powers sketched in the 51st paper. On this point, see also Montesquieu 1949, 153 and 156, and Pangle 1973, 132. The Federalist does not speak of judicial regulation of presidential powers, other than as ordinary courts standing between individuals and the executive as such.

11. On the importance of the strict rule of law to the feeling of security that is the key to liberty, see Montesquieu 1949, 72, 75, 150, 153.

12. Those delegates to the Constitutional convention favoring judicial review understood it as a very narrow, defensive power (Corwin 19-87, 55-56; Farrand 1966, II 73-78 and Suppl. 297). At the convention, Madison distinguished cases arising under the constitution that are of a "Judicial Nature" and argued that the "right of expounding the Constitution in cases not of this nature ought not to be given to, that Department." He notes that this distinction was "generally supposed" in the vote on jurisdiction (Farrand 1966, II 430). This distinction is difficult to understand if the Constitution is to be treated simply as law. Using Federalist 78 as a guide, cases of a judicial nature would be those concerning individual rights, and not cases involving powers and inherently disputable issues requiring extensive practical deliberation. Recall the discussion above concerning a council of revision. Hamilton's more strictly positive implementation of this principle avoids some of the dilemma of responsibility posed by the "doubtful case" rule, as discussed by Snowiss (1990, 64-55).

13. See Hamilton, Madison, and Jay 1961, 398 for doubts about judicial "fortitude" in impeachment trials and for a comparison of the "awful discretion" in such trials and the "strict rules" that "limit the discretion of courts." Moreover, courts are unlikely, in such cases, to have sufficient "credit and authority" to reconcile the people to a decision contradicting their "immediate representatives." At risk in such conflicts would be the "inflexible and uniform adherence to the rights of the Constitution and of individuals" (470). On the exceptions by way of a "political questions" doctrine, see Scharpf
1966. *US v Nixon* seems to reduce this 'doctrine' to a mere, if handy, escape from the problems of confronting executive powers.

14. Montesquieu (1949, 159) argues that an independent judiciary moderates government by ensuring that the laws will be applied to all. To preserve this effect and to foster a sense of security, he denies any judicial authority to modify or moderate the commands of laws themselves. Hamilton may promote a moderating discretion to qualify what Montesquieu (153) sees as the "terrible" aspect the judiciary acquires from its immediate role in punishing.

15. Obviously, either through the accretion of precedents or through a ruling by the highest appellate court, such moderation through application could have a more general effect. This function parallels some of the intended effects of the veto. power, though that power extends to the law itself, and the president's considerations should reach "any impulse unfriendly to the public good" (Hamilton, Madison, and Jay 1961, 443). The probability that a president "will listen to the admonitions of duty and responsibility" depends upon the "probability of the sanction of his constituents who would hardly suffer their partiality to delude them in a very plain case" (445.). Compare this to the discussion of judicial integrity and audience below.

16. James Wilson put a fine point on the matter; "Laws may be unjust, may be unwise, may be dangerous, may be destructive; and yet not be so unconstitutional as to justify the Judges in refusing to give them effect" (Farrand 1966, II 73). Snowiss (1990, 42-43., 57-58) argues that Wilson's statement makes no. sense if the Constitution had been understood as "supreme ordinary law."

17. On the love of fame, the "applauses of others," and virtue, see Hume 1946, 103, 114-115; and 1985, 86 ("Of the Dignity or Meanness of Human Nature"): "to love of the fame of laudable actions approaches so near the love of laudable actions for their own sake that it is almost impossible to have the latter without some degree of the former." For Hume' s influence on Hamilton, see Stourzh 1970, 21, 77-78, and especially 101-102.

For similar discussions of directing ambition through a sense of "honor" or "integrity" derived from a love of esteem or praise, see Francis Hutcheson 1968, 25-26, 76-77, 79, 164; Adam Smith 1982, II iii 3, III 2.5; and Hamilton 1985, 461-65 (letter to Bayard).
8. On the one hand, Hamilton anticipates the effective presence of Smith's (1982, I i 3, 5-7; II i-ii). and Hutcheson's (1968, 49-51, 54-56) abstract standard of morality, i.e., the sentiments of the "disinterested" or "impartial" observer. On the other hand, he also employs Hume's calculations of utility or good effects. Wills (1981) does not discuss this link to the Scottish thinkers.

March and Olsen (1989, 38) speak of trust as "based on a conception of appropriateness more than a calculation of reciprocity". Hamilton ties appropriateness to some calculation of interest. In general, this discussion suggests that March and Olsen draw too sharp a distinction between ambition and virtue.

9. On the difference between integrity and a duty defined by rules, see Smith 1982, III 5.1. The Federalist also mentions integrity most frequently in discussion of branches with longer tenure and of resistance to actions of the majority or the legislature. The treaty power, which involves the more independent Senate and President in secret negotiations with powers having the means to corrupt, demands an account of integrity or virtue (Hamilton, Madison, and Jay 1961, 391, 393, 396, 406, 414, 452).

10. Hamilton's discussion of deliberation over the constitutional plan offers a general account of virtue: "Happy will it be if our choice should be directed by a judicious estimate of our true interests, un perplexed and unbiased by considerations not connected with the public good." But, especially considering the unregulated context, "this is a thing more ardently to be wished than seriously to be expected" (Hamilton, Madison, and Jay 1961, 33). Madison speaks of exceptional cases of individual founders chosen for "pre-eminent wisdom and approved integrity" (231; Hume 1985, 39).


12. For a study of institutional change that is closely related to doctrine and audience, see Tulis 1988. He arrives at a similar problem of skills and virtue (176, 202-204). See also Mansfield 1989, 297.

13. "This is a body, which if rendered independent & kept strictly to their own department merits great confidence for their learning and integrity." (Jefferson 1984, 942-946)

14. On a similar problem concerning the relation between the constitution and the political order, it is not exactly the Judiciary but rather "time only can mature and perfect so compound a system, can
liquidate the meaning of all the parts and adjust them to each other in a harmonious WHOLE" (Hamilton, Madison, and Jay 1961, 491). See Stoner 1987, 213 and Snowiss 1990, 55-57, 220. On the general distrust of equity and common law powers, see Wood 1969, 292-305.

25. Reid (1815) argues that this is a concession by Hume to a "natural intuitive judgment of conscience" and that justice as an "artificial virtue approved solely for its utility, is given up" (IV 327: the emphasis is Reid's). On the importance of "self-approbation" -- being pleased by the "praiseworthiness" of an action"-- and the rarity of integrity, see Smith 1982, III 2.5., 2.25, 3.11.

26. Compare Snowiss' argument that the legalization of the Constitution is a "relatively superficial phenomenon" because "it was achieved by application of ordinary law techniques to the Constitution" (1990, 197) and Rabkin (1989) on how, in administrative law, policy and law are distorted when policy disputes are resolved through the judicial orders and modes. This authority requires judges to have extraordinary skills and "heroic" virtues rather than probable ones (4-11, 55-63, 112-113, 131-143).

27. Cf. Lerner 1979, 120-126, 130. The Founders, Lerner argues, expected professional training to enhance the virtue of "duty" and so to distinguish judges and their judgments from "ordinary men." His investigation suggests the possibility of a judicial "locus of high statesmanship," but also more "equivocal conclusions." The latter, I think, emerges clearly from a full examination of the institutional order.

28. Compare Chayes' (1989) use of the common law mode to justify a grossly broader function of doing "justice" in constitutional matters and Stoner's (1987) more thoughtful examination of the latitude this mode brings to constitutional adjudication. Still, Stoner does not account for many of the functional and institutional restrictions discussed above. Hamilton does admit that in cases "concerning the public peace with foreign nations," some "considerations of public policy" should "guide their inquiries" (Hamilton, Madison, and Jay 1961, 504).

29. As recognized by Madison in 1834 (Snowiss 1990, 185-187). This might have been anticipated in Hamilton's stress on the effects of "good administration" and on the prominence of "magistrates"--judges and executives--in the public mind. Magistrates have the
most direct influence on "hopes and fears," and the object of those passions may be, following Montesquieu, personal security. Madison, at least in Federalist 10, concentrates on factious passions and interests which will pursue their ends through the legislature.

30. March and Olsen 1989, 161-162 suggest a dynamic in the "structure of action and justification" that could explain the gradual evolution of even a well-defined institution: actions are often chosen in relation to role or appropriateness, but justified in relation to consequences. Those justifications would tend to alter later conceptions of role and appropriateness.

31. For a review of various non-interpretivist programs and standards, see McDowell 1989. On the new audience and the philosophical complexity of recent doctrines, see Bork 1990, 133-138.

32. The passionate contention inside and outside these hearings over specific results in the authoritative hands of unaccountable judges seems to belie Perry's description or prescription that judges engage in dialogue or "transformative moral discourse" (1988, 163-164).

REFERENCES


Joining International Organizations:
The United States Process

Elmer Plischke
University of Maryland, Emeritus

This study examines how the United States affiliates with multipartite international organizations, not only by the treaty, but also the executive agreement process. It examines these processes as a legal/political feature of executive-legislative relations, involving nearly 150 international organizations with which the United States has been affiliated since 1945. With few exceptions, Congress has cooperated with the President in developing a variety of techniques for such affiliation, and such coaction is not a post-World War II phenomenon, but began in the 1860s.

The process of American affiliation with international organizations is generally thought to presume cooperation of the President and either the Senate through the treaty process or both houses of Congress by means of executive agreements. Remembering the conflict between Woodrow Wilson and the Senate in 1919 over the joining of the League of Nations and between President Franklin Roosevelt and the Senate in 1935 over becoming a party to the Statute of the Permanent Court of International Justice, and because of the American tradition of isolationism or noninvolvement and the difficult constitutionally mandated treaty process, it was widely believed that the United States was not an avid joiner of international organizations until World War II.

This attitude raises several basic questions. To what extent does the American treaty process inhibit affiliation with international (particularly multipartite) organizations? Is the process of joining them impeded or thwarted by constitutionally prescribed separation of powers respecting international cooperation and involvement via the treaty process, and by the division of powers respecting the exercise of national and residual state authority?
Evolution and Application of the American Treaty and Agreement Processes

At the outset, originally under the Articles of Confederation and subsequently when the Constitution went into effect, the United States dealt diplomatically with other countries on a bilateral basis and generally reduced international commitments to formal treaties. Using France and Great Britain as examples, during the first 60 years (1778-1839) this country signed 26 treaties and 2 agreements with them. Nine of these actually antedated the Constitution and the birth of the American government in 1789. During this early period the formal bipartite treaty served as the normal American instrument of international agreement, and dozens were negotiated primarily with European and Latin American governments. Those antedating the Constitution were "ratified" by the Continental Congress.

Turning to multipartite treaties and agreements, the first one signed by the United States (in 1826) dealt with the establishment of cemeteries in Algiers, and the second (1839) concerned the formalizing of international consular and shipping regulations. Both of these initial engagements were treated by the United States as executive agreements, so that the technique of undertaking multipartite commitments by means other than the treaty process dates back to the early nineteenth century. Nevertheless, as Table 1 indicates, the preponderant majority to 1900 were formal treaties and reliance on treaties continued through 1920. However, the situation then began to change, and of the 51 international organizations contained in the Department of State listing of United States affiliations through December 1945 (Department of State 1946), only 16 (31%) were based on treaties, whereas 32 (63%) were provided for in executive agreements. Indeed, the record is clear that by 1945 the United States had been joining a preponderant majority of international organizations by the executive agreement process.
Commonwealth

TABLE 1
INTERNATIONAL ORGANIZATIONS
AFFILIATION BY TREATIES AND AGREEMENTS

<table>
<thead>
<tr>
<th>Period</th>
<th>Treaties</th>
<th>Agreements</th>
<th>Totals</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prior to 1900</td>
<td>6</td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td>1900-1909</td>
<td>6</td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td>1910-1919</td>
<td>1</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>1920-1929</td>
<td>4</td>
<td>8</td>
<td>12</td>
</tr>
<tr>
<td>1930-1939</td>
<td>2</td>
<td>7</td>
<td>9</td>
</tr>
<tr>
<td>1940-1949</td>
<td>8</td>
<td>30</td>
<td>38</td>
</tr>
<tr>
<td>1950-1959</td>
<td>10</td>
<td>8</td>
<td>18</td>
</tr>
<tr>
<td>1960-1969</td>
<td>5</td>
<td>14</td>
<td>19</td>
</tr>
<tr>
<td>1970-1979</td>
<td>7</td>
<td>11</td>
<td>18</td>
</tr>
<tr>
<td>1980+</td>
<td>4</td>
<td>5</td>
<td>9</td>
</tr>
<tr>
<td>Total</td>
<td>53</td>
<td>88</td>
<td>141</td>
</tr>
<tr>
<td>Percent</td>
<td>37.59</td>
<td>62.41</td>
<td>100</td>
</tr>
</tbody>
</table>


This trend continued after World War II. While some major new agencies were based on treaties, of the 141 multipartite international organizations with which the United States has been affiliated since 1945, 1062% were formed by means of a variety of formal and informal executive agreements.11 As Table 2 shows, of the international organic acts subscribed to the United States since World War II, the preponderant majority, irrespective of their titles, are treated by the United States as executive agreements, including most of the "charters" and "statutes."12
<table>
<thead>
<tr>
<th>Title</th>
<th>Treaty</th>
<th>Agreement</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agreement</td>
<td>3</td>
<td>24</td>
<td>27</td>
</tr>
<tr>
<td>Arbitration Rules</td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Arrangement</td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Articles of Agreement</td>
<td>0</td>
<td>6</td>
<td>6</td>
</tr>
<tr>
<td>Charter</td>
<td>2</td>
<td>5</td>
<td>7</td>
</tr>
<tr>
<td>Conference Communiqué</td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Conference Resolution or Decision</td>
<td>0</td>
<td>16</td>
<td>16</td>
</tr>
<tr>
<td>Constitution</td>
<td>0</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td>Convention</td>
<td>39</td>
<td>3</td>
<td>42</td>
</tr>
<tr>
<td>Declaration</td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Exchange of Diplomatic Notes</td>
<td>0</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>General Act</td>
<td>1</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>Protocol</td>
<td>0</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Regulations</td>
<td>0</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Statute(s)</td>
<td>3</td>
<td>9</td>
<td>12</td>
</tr>
<tr>
<td>Treaty</td>
<td>5</td>
<td>0</td>
<td>5</td>
</tr>
<tr>
<td>U N Resolution</td>
<td>0</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>U S Statute</td>
<td>0</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>53</td>
<td>88</td>
<td>141</td>
</tr>
</tbody>
</table>


International titles do not clearly determine whether an instrument will be approved by the treaty or the executive agreement process. This is because, as Table 3 indicates, the American treatment of these constitutive acts, with some exceptions, is less attributable to how they are designated internationally than to the functions and responsibilities of individual international organizations, as well as the decision-making process of the agencies and the nature of the international commitments subscribed to by the United States.
### TABLE 3
**INTERNATIONAL ORGANIZATIONS**
**FUNCTIONAL INTERESTS AND ACTIVITIES**

<table>
<thead>
<tr>
<th>Category</th>
<th>Treaty</th>
<th>Agreement</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>General</td>
<td>2</td>
<td>1</td>
<td>3</td>
</tr>
<tr>
<td>Agriculture, Animals, and Food</td>
<td>4</td>
<td>4</td>
<td>8</td>
</tr>
<tr>
<td>Aviation and Outer Space</td>
<td>1</td>
<td>1</td>
<td>2</td>
</tr>
<tr>
<td>Commerce, Tariffs, Trade, and Customs</td>
<td>6</td>
<td>6</td>
<td>12</td>
</tr>
<tr>
<td>Communications</td>
<td>4</td>
<td>1</td>
<td>5</td>
</tr>
<tr>
<td>Education and Culture</td>
<td>2</td>
<td>5</td>
<td>7</td>
</tr>
<tr>
<td>Finance and Development</td>
<td>1</td>
<td>19</td>
<td>20</td>
</tr>
<tr>
<td>Fisheries and Marine Resources</td>
<td>7</td>
<td>1</td>
<td>8</td>
</tr>
<tr>
<td>Health and Disease</td>
<td>2</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Legal, Judicial and Law Enforcement</td>
<td>1</td>
<td>6</td>
<td>7</td>
</tr>
<tr>
<td>Navigation, Shipping and Maritime</td>
<td>6</td>
<td>9</td>
<td>15</td>
</tr>
<tr>
<td>Peaceful Settlement, Adjudication, Arbitration</td>
<td>6</td>
<td>0</td>
<td>6</td>
</tr>
<tr>
<td>Political</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>Regional (General)</td>
<td>0</td>
<td>4</td>
<td>4</td>
</tr>
<tr>
<td>Science and Energy</td>
<td>4</td>
<td>7</td>
<td>11</td>
</tr>
<tr>
<td>Security and Defense</td>
<td>4</td>
<td>3</td>
<td>7</td>
</tr>
<tr>
<td>Social and Humanitarian</td>
<td>1</td>
<td>12</td>
<td>13</td>
</tr>
<tr>
<td>Transportation and Travel</td>
<td>1</td>
<td>2</td>
<td>3</td>
</tr>
<tr>
<td>War Crimes (World War II)</td>
<td>0</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>53</td>
<td>88</td>
<td>141</td>
</tr>
</tbody>
</table>


The United Nations and the Organization of American States (whose Charters provide for general political and security functions), all organizations possessing basic peaceful settlement responsibilities, and most of those empowered to implement substantial alliance and collective...
security commitments, or to deal with international communications, fisheries and marine resources, and patent and trademark protection are based on international engagements regarded by the United States as treaties. On the other hand, few of the multipartite agencies that handle educational and cultural, financial and developmental, legal and juridical (excluding pacific settlement of international disputes), and social and humanitarian affairs are subjected to the treaty process by the United States.

With regard to functional service, it is interesting to note that, using the 20 United Nations specialized agencies as a sample, despite their wholesale membership and broad scale responsibilities, only 7 of them were founded on what the United States has regarded as treaties. Aside from those based on early conventions, the primary reasons for resorting to the treaty process is that these agencies enjoy significant rule-making authority and/or possess functions that impinge on the residual constitutional authority and rights of the American states. The others, including several global financial institutions that wield important international authority, have been dealt with by the executive agreement process.

Among the criteria for differentiating between treaties and executive agreements as related to functional responsibility are the degree to which an international organization impinges on the exercise of United States sovereignty, the nature of American influence or control over the agency's decision-making process, the authority of the President to commit the United States under his constitutional powers as commander in chief and, to some extent, historical precedent.

U.S. Treaty and Agreement-Making Practice: Executive-Legislative Relations

So far as the United States is concerned, irrespective of the titles used internationally, the principal constitutional distinction is between the terms "treaty" and "agreement." Article II, Section 2, of the Constitution stipulates that the President has power "to make treaties" by and with "the advice and consent of the Senate" provided that "two thirds of the Senators present concur" thereto. In addition, the President engages the United States in what internally are called "executive agreements," authority for which is not expressly stipulated in the Constitution. These are not subject to the formal approval restraints required for treaties but, like them, also become "the law of the land" (although they cannot change domestic law). Most of these are based on prior legislation or are approved subsequently by
congressional action endorsed by majority vote of both houses of Congress, sometimes consisting simply of implementing legislation.

Throughout our history, executive-legislative differences—both legal and political, and sometimes partisan—have arisen in delineating the usage of treaties and executive agreements, authority to decide upon the applicability of agreements, the role played by the Senate in amending treaties and appending reservations or interpretations, and action of the President to establish policy and undertake international commitments as chief executive, commander in chief, or diplomat in chief without overt legislative support. Since World War II such differences have involved the President's prerogative to enter into agreements related to expanding American commitments and actions as a major world power, including participation in international organizations, circumventing the two-thirds Senate treaty approval requirement or, in some cases, obviating congressional approval on policy positions that do not require implementing legislation.

Over the years much has been published on the American treaty and agreement-making processes, including official interpretations and practices concerning them. Some of these focus on the President's authority to "make" treaties and agreements, definitions of and distinctions between them, congressional or Senate authorization and approval as well as formal ratification and adherence procedures, types of executive agreements, requirements to submit treaty and agreement texts to Congress, and State Department responsibility for publishing them.27

In 1964 the Department of State issued a statement of "standards" for determining whether an international engagement "should be concluded as a treaty." It specifies that it must be regarded as a treaty when the subject matter is traditionally handled as a treaty or is not solely within the constitutional authority of the President, when it involves important commitments affecting the nation as a whole, and/or when it is desired to give utmost formality to the commitment with a view to requiring similar formality on the part of the other governments concerned." This statement also lists standards for determining when an agreement other than a treaty may be employed. (Whiteman 1970, 14:209) The presumption follows that, at least in the first instance, it is the Department of State that determines whether the international engagement is to be regarded as a treaty or an executive agreement in American constitutional practice.

In 1978 the Senate also considered a general draft "Treaty Powers Resolution" which would empower it to designate any international
understanding as a treaty and, therefore, subject it to the treaty-approval process, and to require the President to seek the advice of the Senate Foreign Relations Committee in advance of negotiations to determine its status. Although this resolution failed to gain approval, a comprehensive understanding was reached concerning the Department of State's responsibility for informing the Foreign Relations Committee, "on a confidential basis," of significant pending treaty negotiations.28

Types of Executive Agreements and Special Arrangements

From existing legislation and commentary, it is evident that, aside from treaties, the President may initiate various types of "executive agreements." They may be formal, involving instruments comparable to treaties in terms of negotiation, content, form, approval, and accession which, from the international perspective, are indistinguishable from treaties. The constitutive acts of many international organizations have been treated in this fashion.29 Other authorizations, embodied in broader functional agreements, may simply stipulate the establishment of a multipartite organization whose operations are prescribed by that agency itself or, as noted earlier, international agencies may flow from resolutions agreed upon by international conferences or organizations or, as in the case of the United Nations War Crimes Commission, are provided for in an exchange of diplomatic notes.30

Aside from formal constitutive treaties and presidential agreements based solely on executive authority, the bulk of executive agreements fall into four general categories. These embrace (1) agreements founded on existing treaties,31 (2) agreements consummated subject to subsequent formal approval by the ordinary legislative process,32 (3) agreements made pursuant to prior congressional resolutions or specific authorizing legislation,33 and (4) agreements that merely require some other form of implementing legislation.34

Illustrating an exceptional case of legislative-executive coaction in dealing with the executive agreement process, the General Agreement on Tariffs and Trade--a comprehensive global convention on international trade policy, practices, and regulations known as GATT, signed in 1947--is unique in several respects. It was negotiated as a basic multipartite trade "treaty" and has frequently been amended and supplemented by revised commitments and extensive protocols.35
Also admittedly unprecedented, evidencing liberal legislative initiative in the establishment of international institutions, in 1966 Congress required the President to "cooperate with the Inter-American Center Authority (an agency of the State of Florida)" to provide for "United States participation in the Inter-American Cultural and Trade Center," called INTERAMA. It was created to promote Western Hemisphere trade and intercultural relations. Participants, Congress added, may be not only foreign countries but also, most unusual, individual states in our federal union.36

Perhaps the most extraordinary example, however, of congressional-executive cooperation for joining multinational international organizations dates back to the 1870s--during the formative years of American affiliation with such agencies. In 1874 the United States signed a multipartite postal convention, establishing the General Postal Union, whose title was changed to the Universal Postal Union in 1878.37 To facilitate the negotiation of postal arrangements, in 1872 Congress passed an act empowering the Postmaster General, "by and with the advice and consent of the President" to conclude such conventions.38 This method of advance congressional authorization for concluding and ratifying conventions by the American postal agency, subject to presidential approval, is one of the most unique in congressional-executive treaty-making relations.39

An additional feature of executive-congressional cooperation involves presidential authority to confer "international privileges and immunities" upon international organizations and their officers and employees. Under international law these are differentiated from "diplomatic and consular privileges and immunities" accorded to regular diplomatic agents.40

Conclusion

In response to the questions raised at the outset, concerning the application of the constitutionally ordained separation of powers and the treaty and executive agreement processes for affiliation with multipartite international organizations, it may generally be concluded that, with very few exceptions, the American system does not seriously inhibit such involvement. Over the years, a variety of cooperative executive-legislative arrangements have not only been devised but also liberalized to accommodate such association.
Although initially the treaty process, requiring Senate approval, emerged as the traditional method for affiliation with these organizations, and some that were joined in this fashion remain in existence, this method was supplemented and eventually paralleled and superseded by the executive agreement process, so that by the end of World War II, and since, nearly two-thirds have been founded on agreements rather than treaties. Moreover, Congress does not require that all executive agreements serving as constitutive acts of such agencies be approved by formal affiliation or authorizing legislative action. Some are regarded as "presidential agreements" consummated by the executive under his authority as chief executive, commander in chief, or diplomat in chief. Others are based on prior authorizing legislation, simple association approval, functional implementing enactments, or merely appropriations allotments. In a few special cases, Congress even mandates the establishment of an organization or, in dealing with postal affairs, it authorized an extra-constitutional procedure.

Admittedly, the most difficult and occasionally most formidable of these executive-legislative arrangements is the treaty process, especially when the President and the Senate majority represent different political parties or policy positions. This is especially important in joining particular types of international organizations, such as those that possess significant political functions or general adjudicatory and arbitral functions, establish collective defense commitments, exercise international regulatory or rule-making powers, or handle issues that infringe upon the residual powers and functions of the constituent American states and the people protected by the Tenth Amendment.

So far as United States legislative action is concerned, the most comprehensive congressional action to approve a previously negotiated constitutive act of an international organization empowers the President not only to accept membership for the United States, but also to appoint representatives to its deliberative sessions and provide for appropriations to pay the American share of the agency's expenses. In other cases, Congress enacts prior authorizing legislation that serves as the basis for negotiations to create and/or join an international organization, resulting in either a treaty that requires Senate approval or an executive agreement that may or may not need subsequent confirmatory legislative action, or that merely is implemented by the passage of appropriations legislation. Some "presidential agreements" (distinguished from "congressional-executive
agreements") may be self-executing and may not require any legislative action unless funding is required.

The reasons for these variations in executive-legislative practice flow from the application of differing criteria. For example, "presidential agreements" are generally reserved for either policy-recommending, temporary or interim, and wartime and immediate post-hostilities international organizations. On the other hand, many purely administrative and servicing, financial, and development agencies, respecting which presidential and congressional interests and objectives coalesce, are founded on executive agreements. If the organization is empowered to produce subsidiary substantive treaties or agreements subject to subsequent congressional action, their status is likely to be determined on their own merits. At times tradition plays a major role, so that once the decision is made to employ either the treaty or the agreement process, this may be continued for subsequent arrangements for particular organizations, and their successors, unless reasons materialize that warrant shifting the procedure. Finally, overriding other considerations, in certain cases the ultimate determination depends upon whether the authority and functions of an international organization impinges upon the residual rights of our constituent states or American persons, both corporate and private. Several of these criteria may apply or compete in deciding upon the status of the constitutive act of a given organization and the procedure for affiliation.

More than two centuries of experience evidences that, in keeping with a basic rule of diplomacy, if there is a will to do something, a way will be found to accomplish this. Difficulties arise when the Executive and Congress, each jealous of its constitutional birthright, disagree on their interpretation of the nation's goals and welfare, on their respective authority and roles in dealing with them, or on the process required to achieve and sustain them.

While the joining of many international organizations by the executive agreement rather than the treaty process might be viewed as designed to circumvent the treaty clause of the Constitution--especially because of experience with the League of Nations Covenant and the Statute of the Permanent Court of International Justice following World War I--this fails to explain the evolution and mutation of American practice. Executive agreements were used virtually from the beginning of United States participation in the creation of both bilateral and multilateral agencies in the nineteenth century. Initially this may be attributed to experimentation--a search for a flexible and workable constitutional process. Other motivations
include a willingness on the part of Congress to treat legislative consideration of treaties and agreements in the form in which they are suggested or submitted by the President, and perhaps a disposition that, so long as no hazardous legal commitments are involved that directly or immediately affect unpropitiously the national interests, welfare, and security of the country or impinge adversely upon the rights of the constituent states or private individuals, the more cumbersome treaty procedure is unnecessary.

In short, neither the separation of powers, nor the treaty process, has thwarted or seriously impeded the initiation and joining of international organizations. The system conceived by the framers of the Constitution has been molded to meet the needs of the country and the times. Procedures have been devised and modified to accommodate the powers and the functions of the President and Congress to enable them to play compatible if not cooperative roles in fabricating and managing an encompassing array of multipartite agencies to cope with global and regional issues and facilitate significant aspects of the governing of international affairs.

Appendix

In international parlance, the terms "treaties" and "agreements," and also such expressions as international "accords," "arrangements," "compacts," "conventions," "engagements," and "understandings" constitute generic expressions and they are used interchangeably. Whereas in practice some are formally titled "treaties" or "agreements," others bear a variety of more restricted titles. A few that are specifically employed for the "constitutive acts" of international organizations—which are unique in that they are utilized solely for the establishment of these agencies, such as "articles of agreement," "charter," "covenant," and "statute"—are readily understood. Alternative generic expressions for international engagements are "accord," "compact," and "understanding."

In addition to the terms "treaty" and "agreement," the following are commonly employed for international engagements. An "act," "general act," or "final act," is normally a formal statement or summary of proceedings of an international conference, which alludes to or includes treaties, agreements, or other forms of commitment. A "compromis d'arbitrage" is a specialized understanding, often in the form of a treaty, to submit a particular dispute to international arbitration or adjudication, specifying the issue to be decided, the agency to decide it, and, sometimes,
Commonwealth

the principles to be applied in deciding it; these may supplement the treaties that establish continuing organizations for processes of peaceful settlement. The "concordat" is a treaty or agreement signed by a government with the Vatican, concerning the interests of Roman Catholic Church and ecclesiastical matters. The term "convention" denotes a major multilateral treaty, usually concluded at an international conference, which concerns a variety of usually non-political affairs, and establishes important international commitments. An international "declaration" is a joint statement of policy or of principles of international law as mutually understood. A "modus vivendi" is a provisional working arrangement pending the devisement of a more permanent understanding for settling a dispute or resolving a problem. The term "pact" is a popular title for certain important treaties, usually creating significant commitments concerned with collective security and peace-keeping, or with establishing an alliance. The title "proces-verbal" denotes either simply an authenticated record of the minutes of an international conference or of an exchange of treaty ratifications, or constitutes an agreed written addition to the text of a treaty or agreement by way of explanation, elucidation, or interpretation. When applied to a written instrument, the term "protocol" is interchangeable with "proces verbal." Most of these relate, directly or indirectly, to the titles of the constitutive acts of international organizations. See Table 2 for statistical details.

Aside from the distinction among titles employed internationally, however, the United States distinguishes legally between "treaties," which require Senate approval by special vote, and "executive agreements," which do not. In American practice all "treaties," regardless of the international titles they bear, are dealt with by a constitutionally prescribed method of validation. On the other hand, "executive agreements," also irrespective of their specific international titles, may be dealt with by various procedures. The most important domestic differentiation among them, in this respect, is between "presidential agreements" (which are consummated solely by the executive on the basis of presidential authority and therefore do not necessitate implementing legislation) and "congressional-executive agreements" (which do require some form of cooperative legislative action to put them into effect in the United States).

Note also, as indicated in Table 2, that international titles do not predetermine the way international acts will be handled by the United States. The organic acts of the post-World War II multipartite organizations fall into two primary groups--those connoting procreative designations and
those reflecting some form of international covenant. The first of these
accounts for only 19%, including charters" (7), "constitutions" (8), and
"statutes" (12). For example, the Food and Agriculture Organization,
International Labor Organization, International Refugee Organization, and
World Health Organization are founded on "constitutions;" the Inter­
American Committee on the Alliance for Progress, Organization of
American States, and United Nations are based on "charters;" and the Inter­
American Statistical Institute, International Atomic Energy Agency,
International Criminal Police Commission, International Court of Justice,
and International Meteorological Organization are founded on "statutes."

The balance (114 or 81%) are founded on constitutive instruments
that bear titles denoting some form of international accord. Of these, the
largest number are called "conventions," and all but 3 of the 42 conventions
were dealt with by the United States as treaties, as were those formally titled
"treaty." A total of 33 others are termed "agreements" or, in the case of
many financial agencies, as "articles of agreement," and all but 3 of these
were treated by the United States as executive agreements. The three
exceptions, dealt with by the treaty process, were the constitutive acts of the
International Office of Epizootics, the International Office of Public Health
(1908, superseded by the World Health Organization in 1948), and the
international agency established to maintain navigation lights on the Red
Sea.

Only 5 organizations are based on constitutive acts formally titled
"treaties" (these include collective security and peaceful settlement
arrangements, such as the North Atlantic and Southeast Asia Treaty
Organizations and inter-American arbitration and conciliation agencies), and
1 was founded on a "general act" (this title applied solely to the Committee
of Control of the International Zone of Tangier, which was terminated in
1956) and 2 on "protocols" (the Central American Tribunal and the Council
of Foreign Ministers). On the other hand, 16 were created by international
conference and United Nations and Organization of American States
"resolutions" or "decisions," 4 by "exchanges of diplomatic notes," and a
few others by international "declarations," "regulations," "rules" and,
strangely, even by a United States Statute.

It is a well-established international custom that treaties and
agreements are subject to the principle of "ad referendum," which provides
that, to become binding, the final, signed instruments must be subsequently
approved by the governments of signatories in accordance with their
national constitutional processes. The usual international procedure for
Commonwealth

effectuating treaties and some agreements, that is generally applicable to all
signatories including the United States, is called "ratification." This is an
executive act signified by a document called an "instrument of ratification,"
which is signed by the chief executive. In the case of the United States all
international engagements that are regarded as "treaties" require advance
Senate approval before the President issues a ratification instrument. The
ratification procedure applies to all governments that negotiate and sign the
treaties and agreements. On the other hand, the terms "accession," "adherence," and "adhesion" (which are used interchangeably) characterize
acquiescence by non-signatories that later agree to be bound by the treaty or
agreement, which they evidence by executing "instruments of accession,
adherence, or adhesion." These confirmatory actions and documents apply
to affiliation with international organizations as well as to other treaties and
agreements. In exceptional cases, however, such as the consummation of
agreements by means of the "exchange of diplomatic notes" generally
require no specific additional acquiescing action to implement them.

A few additional terms warrant brief explanation. A "self
executing agreement," including an exchange of diplomatic notes, whatever
its international title, is automatically enforceable on the basis of its own stipulations when it is consummated and promulgated, and therefore
normally requires no legislative approval for its implementation. On the
other hand, "non-self-executing agreements" are not automatically
enforceable and do require authorizing legislation and/or additional
executive action.

The expression "privileges and immunities"--a well established
aspect of international law and diplomacy--denotes the inviolability,
exemption, freedom, and special entitlements applied not only to persons,
but also to their facilities, property, and records. When accorded by
international custom and special treaties to government leaders, diplomats,
and consuls, but also to national representatives to international
organizations, they are denominated "diplomatic and consular privileges and
immunities." But when they are applied to the officials of international
organizations (which differ somewhat in their detail) they are called
"international privileges and immunities." For example, the United States
signed a formal treaty with the United Nations in 1946, specifying the
international privileges and immunities that apply to its officials and staff
members within the jurisdiction of the United States.

Finally, the terms "international organizations" and "international
agencies" are used synonymously. But a distinction is made between
"general" and "specialized" international organizations. The former possess broad powers that encompass, among others, political functions (represented by the United Nations and the Organization of American States), whereas most organizations are restricted to limited, often technical and administrative, concerns. In addition, the designation "specialized" is also legally ascribed to those international organizations that are officially affiliated (often by treaty) with general organizations. In the case of the United Nations, they are denominated "United Nations specialized agencies." However, those that are similarly associated with the Organization of American States are referred to as "inter-American specialized organizations." Hence, while there are dozens of specialized global and inter-American organizations, only 20 of the global have been affiliated with the United Nations as its "specialized agencies" and only 6 of those in the Western Hemisphere are associated with the Organization of American States as its "specialized organizations."

NOTES

1. To facilitate understanding the nomenclature pertaining to treaty and agreement making and international organizations, it is essential to differentiate between general international and United States usages, and distinguish various titles and types of treaties and agreements, methods of becoming a party to international commitments, and categories of international organizations, as well as certain other relevant matters in both international and United States practice. See Appendix for a full discussion of relevant nomenclature.

2. Despite President Wilson's leadership at the Paris Peace Conference after World War I and, unprecedented, personally signing the Versailles Treaty, which contained the Covenant of the League of Nations and the Statute of the Permanent Court of International Justice, in 1919 the Senate rejected the treaty four times.

3. Although President Roosevelt, supported by the general public, submitted a protocol of adhesion to the Senate, the Statute of the Court was rejected by a vote of 52 to 36, which was 7 votes short of the necessary majority.


5. The texts of these early treaties and agreements are provided in Bevans, vols. 7 and 12. The treaties were concerned with boundary and
Commonwealth

claims settlements (10); amity, commerce, navigation, and consular affairs (9); Revolutionary War and War of 1812 settlements (3); cession of the Louisiana Territory by France (2); the Franco-American Alliance (1—the only such pact engaged in by the United States prior to the 1930s); and naval disarmament on the Great Lakes (1). Five of these treaties provided for bilateral arbitration agencies, all but one with Great Britain. The 2 executive agreements, on the other hand, consummated by exchanges of diplomatic notes, dealt with the cessation of Revolutionary War hostilities with Britain signed in 1783 (see Bevans, 12: 6), and provided for amity with France signed in 1778 (for this protocol to a treaty, see Bevans, 7: 792).

6. Under the Articles of Confederation (1778), the Congress was authorized to "enter into treaties or alliances" providing the delegates of at least 9 of the 13 states assented (Article XVIII), but Congress lacked authority to secure compliance of the states to such treaties. For commentary, see Whiteman, 14: 15.

7. See Bevans, 1: 1-2 and 3-6. According to the Department of State, these are the first multipartite international understandings subscribed to by the United States. These were followed by a third, a formal Red Cross Convention, not signed until 1864 (Bevans, 1: 7-11).

8. A substantial number of these treaties (59%) dealt with the establishment and continuance of international organizations, and eight of these agencies remain in existence. These continuing organizations are: the Permanent Court of Arbitration (Hague Tribunal) and agencies concerned with the exchange of publications, the Cape Spartel Lighthouse, penal and penitentiary affairs, postal affairs, protection of industrial property, publication of customs tariffs, and weights and measures. Other treaties dealt largely with claims and territorial issues. In addition, prior to the twentieth century, the Pan American Union, established in 1890, was the only such agency founded on an international conference resolution rather than a treaty, and it was later incorporated into the Organization of American States.

9. Three failed to be established. Discounting the latter as well as one provisional agency and 4 commodity councils and committees, more than 40 of these organizations remained in existence in the post-World War II era, some with revised constitutive acts and/or title changes. This State Department list of 51 organizations
contains only 5 temporary wartime agencies (none of which was founded on a treaty).

10. For this list of 141 international organizations, see Plischke 1991, Appendix. It provides the title of each organization, the title of its constitutive act, and the year of United States affiliation, and it indicates whether each organic act was dealt with as a treaty or an executive agreement. Note also that several categories of temporary wartime and post-surrender agencies based on executive agreements were not included. However, newer agencies that wield general political authority (such as the United Nations and the Organization of American States), that provide for alliances and collective defense (such as the North Atlantic Treaty and the Rio and Manila Pacts) or adjudicatory, arbitral, and other pacific settlement functions (such as the Permanent Court of Arbitration and the International Court of Justice), and that possess significant law or rule-making responsibilities (represented by several of the United Nations specialized agencies) are usually founded on treaties.

11. In addition to such organizations as the World War II Council of Foreign Ministers, War Crimes Commission, International Military Tribunals, and Inter-Allied Reparation Agency, these embrace international energy, meteorological, migration, statistical, and other global organizations, as well as all universal and regional banks, funds, and related financial institutions (8 of which are global financial institutions affiliated with the United Nations, including the International Bank and the International Monetary Fund, and 8 are regional agencies) and some 15 inter-American agencies (such as the Inter-American Defense Board, Commission of Human Rights, and Statistical Institute, and the Pan American Union).

It is particularly noteworthy that two-thirds of the specialized agencies of the United Nations were founded on executive agreements. This group includes those dealing with educational, financial, food and agriculture, health, labor, refugees, and trade and development affairs.

12. While the Charters of the United Nations and the Organization of American States, like the Covenant of the League of Nations, were regarded by the United States as treaties, the Charters of such organizations as the Inter-American Committee on the Alliance for
Commonwealth

Progress, World War II International Military Tribunals, and the United Nations Industrial Development Organization were treated as executive agreements.

13. The 141 post-World War II organizations may be grouped in 19 categories. Table 3 provides a more comprehensive classification than that employed in two Department of State studies, which list 7 categories in addition to "general" and "commodity" agencies and World War II temporary "occupation and peacemaking" organizations; see Department of State 1946 and 1950h.

14. Such as the International Court of Justice, the Permanent Court of Arbitration, and the inter-American tribunals and commissions of inquiry and conciliation.

15. Such as ANZUS (Australia, New Zealand, United States alliance), NATO, SEATO, and the Rio Pact inter-American security arrangement, but not the Inter-American Defense Board which is largely a planning agency.

16. Such as the International Telecommunication Union, the Universal Postal Union, and the Postal Union of the Americas and Spain.

17. Such as those concerned with conserving fisheries, seals, tunas, whales, and Antarctic marine resources, as well as the International Maritime Organization and the International Council for the Exploration of the Sea. In 1982 however, the United States refrained from signing the Law of the Sea Treaty which provided for a deep sea mining regime.

18. Such as the Inter-American Trade Mark Bureau and the International Union for the Protection of Industrial Property (concerned with patents and trademarks).


20. Such as the International Telecommunication and the Universal Postal Unions (1874 and 1906).

21. Another potential specialized agency of the United Nations, the International Trade Organization, was never established. Its Charter of 1948, regarded as a treaty by the United States, was never ratified by this country or any of the other 50 signatories.
22. Two of these United Nations specialized agencies whose constitutive acts were regarded by the United States as executive agreements—the International Refugee Organization and the United Nations Relief and Rehabilitation Administration—were temporary agencies and have been disestablished.

23. This would apply to the United Nations and the Organization of American States; fishery, navigation, and shipping regulatory agencies; and alliance and collective security arrangements.

24. Aside from possessing the veto power in the United Nations Security Council, this applies, for example, to the International Bank, International Monetary Fund, and regional banks and funds which employ the weighted voting system.

25. This applies to such agencies as the Emergency Advisory Committee for Political Defense (inter-American), the Inter-American Defense Board, the United Nations War Crimes Commission, and the World War II International Military Tribunals for Europe and the Far East to deal with war criminals.

26. This is represented by the organizations joined in the nineteenth century, such as the Universal Postal Union (1874), International Bureau of Weights and Measures (1878), International Union for the Protection of Industrial Property (1884), International Center for the Exchange of Publications (1889), and the International Union for the Publication of Customs Tariffs (1891), which are still in existence.

27. For basic studies on American treaty and agreement-making, see Allen 1952; Blix 1960; Blix and Emerson 1973; Butler 1902; Byrd 1960; Collier 1969; Crandall 1916; Davis 1920; Devlin 1908; Fleming 1930; Gilbert 1973; Hendry 1955; Holt 1933; Hudson 1931-1950; Johnson 1984; Jones 1946; McClure 1941; Plischke 1967, chapters 12-14; and Tucker 1915.

For recent commentary and documentation on these matters, see: constitutional aspects of treaty-making (Murphy, 1975, pp. 99-101); the President's authority to make treaties and agreements (Department of State, Annual Digest of United States Practice in International Law, 1979, 771-780; hereafter Digest); the traditional definitions of "treaties" and "agreements" (Whiteman, 14: 1 and 195-196); Department of State procedure for distinguishing "treaties" and "agreements" (Department of State 1974); treaty ratification procedure (Digest 1974, 215-217);
agreements made by the President solely under his constitutional power (Whiteman, 14: 240-255); executive agreements subject to subsequent approval or implementation (Whiteman, 14: 234-240); meaning of the term "executive agreement" under the Case Act of 1972 (Digest 1973, 185-186); requirement to transmit the texts of international agreements to Congress under the Case Act of 1972 (P. L. 92-403; 86 Stat. 619), and Department of State letter to all executive departments and agencies, September 6, 1973 (Digest 1973, 187-188); and the requirement, enacted in 1950, for the Secretary of State to publish the texts of treaties and agreements (64 Stat. 980; 1 USC 112a). For a comprehensive bibliography on treaty and agreement-making, see Plischke 1980, 385-397.


29. Such as the "constitutions" of the Food and Agriculture Organization, International Labor Organization, and World Health Organization; the "conventions" of the International Institute of Agriculture and International Maritime Satellite Organization (although most constitutive acts entitled "convention" are treated by the United States as treaties); the "articles of agreement" of the International Bank and Monetary Fund; and the "statutes" of the International Children's Institute and International Meteorological Organization.

30. While such matters may be reflected in the American executive-legislative process respecting treaties and agreements in general, internally additional distinctions are made among several specific types of executive agreements. One important category consists of
those consummated under and in accordance with the President's constitutional powers as chief executive, commander in chief, or diplomat in chief. These are called "presidential agreements" (to distinguish them from "congressional-executive agreements" which involve legislation), and they are essentially "self-executing." "Self-executing" treaties and agreements are automatically enforceable on promulgation on the basis of their own stipulations, without requiring implementing legislation. The principal criterion for this distinction is whether the subject matter and authority for its treatment lie wholly within the powers of the President or require congressional consent, approval, or other action. For commentary on "self-executing" and "non-self-executing" international engagements, see Whiteman, 14, 302-316, and Digest, 1980, 415-417.

The same basic categories apply to joining international organizations. The number participated in solely on presidential authority is small, except for those creating temporary wartime and post-hostilities agencies based on the President's powers as commander in chief. World War II illustrations embrace the Council of Foreign Ministers (provided for in the Potsdam Agreement), the Inter-American Defense Board (flowing from an inter-American conference resolution), and a series of military government/civil affairs agencies, such as the Allied Council for Japan, European Advisory Commission, Far Eastern Commission, United Nations War Crimes Commission, and multipartite control councils and commissions for individual liberated countries and defeated Axis powers. Except for the Inter-American Defense Board, these proved to be temporary agencies.

Another type of international organization based on presidential agreements consists of "preparatory" and "interim" agencies created to launch more permanent organizations. These temporary arrangements, often founded on a modus vivendi, were established, for example, for the United Nations, several of its specialized agencies, and a few other organizations. Such preparatory arrangements were provided for the Food and Agriculture Organization, International Atomic Energy Agency, International Civil Aviation Organization, International Refugee Organization, International Trade Organization (which failed to be established), United Nations Educational, Scientific and Cultural
Commonwealth

Organization, and World Health Organization, as well as the Central Commission for Navigation of the Rhine and the Inter-American Commission of Women.

31. Examples of international agencies that are based on existing treaties include many subsidiaries of the United Nations, the Organization of American States, and the North Atlantic Treaty Organization. Thus, the UN Trade and Development Board (1964), UN Industrial Development Organization (1966), UN Institute for Training and Research (1963), UN International Children's Emergency Fund (1946), and other United Nations subsidiary institutions were automatic in that they required no subsequent executive or congressional action, except support of their funding. Similarly, the Statutes of the Inter-American Commission of Human Rights was approved by an OAS Council resolution in 1960. Under the North Atlantic Treaty, NATO initiated a variety of functional subsidiaries, as well as many purely administrative arrangements founded on subsequent agreements or Council resolutions.

32. A significant number of international organizations have been joined by means of executive agreements negotiated subject to subsequent formal congressional approval action of both houses, usually in the form of joint resolutions. Several specialized agencies of the United Nations and a number of other organizations were affiliated with by this process. These United Nations specialized agencies included, initially, the International Labor Organization (49 Stat. 2712; 22 USC 271, 272), and subsequently, the Food and Agriculture Organization (59 Stat. 529; 22 USC 279 and 279a), International Bank and International Monetary Fund (59 Stat. 512; 22 USC 286-286k), United Nations Educational, Scientific and Cultural Organization (60 Stat. 712; 22 USC 287m), and World Health Organization (62 Stat. 441; 22 USC 290). Other organizations dealt with similarly are represented by the Caribbean Commission (62 Stat. 66; 22 USC 280h), Central Bureau of the International Map of the World on the Millionth Scale (44 Stat. 384 and 46 Stat. 825; 22 USC 269a), Inter-American Statistical Institute (59 Stat. 311; 22 USC 269d), and International Criminal Police Commission--INTERPOL (52 Stat. 640; 22 USC 263a).

Standard congressional language for such affiliation specifies that "The President is hereby authorized to accept membership for the United States in . . . . . ." or that "The
President is hereby authorized to accept on behalf of the Government of the United States the [constitutive act of the organization]." These and similar general prescriptions may be further implemented with specific appropriations or other legislation. In the case of INTERPOL, however, Congress legislated: "The Attorney General is authorized to accept and maintain, on behalf of the United States, membership in the International Criminal Police Organization . . ."

33. To illustrate, the Fulbright and Connally Resolutions of 1943, respectively, sanctioned the creation of "international machinery" and "a general international organization" for the maintenance of peace and security. These preceded the negotiation of the United Nations Charter, which in turn, was subsequently approved for ratification by the treaty process. Similarly, the Vandenberg Resolution of 1948, providing Senate authorization for United States association with "regional and other collective arrangements" to maintain national security, presaged the negotiation and ratification of the North Atlantic Treaty. For the texts of these congressional resolutions, see Department of State, 1950a, 9, 14, and 197.

Evidencing the established practice for negotiating international agreements authorized in advance by act of Congress, the roster of these agreements numbers in the hundreds. Such action has been particularly extensive in the fields of international trade and foreign aid and development (including economic assistance, lend-lease, military/mutual assistance, technical assistance, and the Peace Corps), but also in such areas as commercial aviation, copyright, patents, space cooperation, and trademarks. For illustration, see 19 USC 1351, by which "the President...is authorized...to enter into foreign trade agreements with foreign governments..."; also see 19 USC, Chap. 17 on trade agreements, including 19 USC 2501-4 on the Trade Agreements Act.

So far as multilateral international organizations are concerned, the United States affiliated with the International Maritime Satellite Organization --INMARSAT, International Telecommunications Satellite Organization--INTELSTAT, and International Union of Official Travel Organizations by this advance legislative process. Congressional authorization in
advance for affiliation with these organizations is provided, respectively, in 92 Stat. 2392 (47 USC 751); 76 Stat. 419 (47 USC 701); and 62 Stat. 153 (22 USC Supplement II, Sec. 1515b, since repealed). Although the United States was not an official member of the Organization for European Economic Cooperation (OEEC) to administer the Marshall Plan for European recovery following World War II, it worked closely with this agency under the Economic Cooperation Act of 1948. The remarkable case of the Universal Postal Union is discussed later.

34. The final category of affiliation, involving subsequent congressional implementing rather than establishment or affiliation legislation, encompasses those cases in which Congress, without overtly legislating approval of their constitutive acts, merely provides American funding for participation in international organizations. Thus, in 1935, Congress passed a resolution specifying that "to enable the United States to become a member of the Pan American Institute of Geography and History, there is hereby authorized to be appropriated . . . for the payment of the quota of the United States." Also, the Federal Seed Act of 1939 was amended in 1944 to provide that funds appropriated for administering the act "may be expended for the share of the United States in the expense of the International Seed Testing Congress." These 1935 and 1939 enactments are provided for, respectively, in 49 Stat. 512 (22 USC 273) and 58 Stat. 741 (7 USC 1605).

For general policy and commitments respecting American contributions to international organizations, see 22 USC 261-77, and for a list of legislation providing annual funding of a selected series of international agencies, see 22 USC 269a, addendum. Other illustrations of agencies treated in a similar fashion include the Inter-American Statistical Institute, International Association of Navigation Congresses, International Technical Committee of Aerial Legal Experts, and Interparliamentary Union. For illustrations of congressional blanket provisions for United States contributions to dozens of international organizations, with annual amounts, see Department of State 1950-1967 (1956) 1431-1434 and other volumes in this series.

35. The original GATT trade treaty of 1947, signed by 8 governments, is provided in Bevans, 4: 639-688. Overall, the extensive GATT complex, including protocols of accession and declarations of
rectification, numbers more than 75 instruments. The General Protocol of June 30, 1979 (Department of State 1950c, 31: Parts 2-5), for example, consists of four volumes of more than 3,000 pages. These multiple agreements establish common policies and rules governing many aspects of commerce that are incorporated into American legislation. Moreover, the GATT agreement did not originally constitute a typical constitutive act of an international organization, although Article XXV established a political process and mechanism for the "contracting governments" to deal with representation, meetings, accession and withdrawal, activities, decision-making, and amendments, and it provided for a steering committee called the Consultative Group. In addition, GATT is regarded as a continuing international trade conferencing system and as a quasi-specialized agency of the United Nations. For the original congressional acts for implementing GATT, see 61 Stat. (5) and (6) and 62 Stat. 3663; and for current law, see 19 USC 2901-2906.

36. Congress also prescribed the purposes, membership, powers, and duties of the Inter-American Cultural and Trade Center; see P.L. 89-355; 80 Stat. 5; 22 USC 2081-2085.

37. For these early multipartite postal conventions, see Bevans, 1: 29 and 51. For later agreements, and protocols, see Bevans, vols. 1-4, and for listing of current postal conventions, see Department of State Annual.

Postal "arrangements" with individual foreign countries were authorized by statute as early as 1792. Sec. 26 of this enactment of 1792, creating the Post Office Department, specified that "the Postmaster General may make arrangements with the Postmaster in any foreign country for the receipt and delivery of letters and packets through Post Offices." Annals of Congress, 1849, 1333-1341; also see 1 Stat. 239.

Early bilateral postal conventions were consummated with individual governments as treaties, subject to Senate approval. Initial formal bilateral treaties of this type were signed with New Grenada (1844), Great Britain (1848), Belgium (1859), and Mexico (1861). The first of these applied to the territories of Colombia, Ecuador, Panama, and Venezuela. The records indicate that these treaties were ratified by the President with Senate approval, except for that with Belgium, for which no Senate action is indicated. For
the texts of these treaties, see Bevans, 5: 459-467; 6: 865-867; 9: 821-825; and 12: 98-104.

38. Since then both bipartite and a series of multilateral conventions and protocols have been concluded. From 1874 to the end of World War II, twelve of these global conventions were signed and ratified by the United States. Currently the statute simply specifies that the Postal Service, "with the consent of the President, may negotiate and conclude postal treaties and conventions . . . between the United States and other countries." For the 1872 enactment, see 17 Stat. 304, and for the current statute, see P.L. 91-375, dated August 12, 1970; 84 Stat. 724; 39 USC 407.

In addition to the Universal Postal Union, the United States also joined the Pan American Postal Union in 1926, retitled the Postal Union of the Americas and Spain in 1931. For the 1926 agreement, see Bevans, 2: 309-317, and for the 1931 agreement, see Bevans, 3: 34-55.

It is significant to note that the Postmaster General/Postal Service--rather than the President or the Department of State--not only "negotiates" and "concludes" these postal conventions, but also "ratifies" them, subject to the "consent," not of the Senate or both houses of Congress, but of the President. 39. Based on the precedent established in the 1870s to facilitate the consummation of international postal engagements by means other than the customary treaty or common executive agreement process, Congress prescribed an extraordinary if not "extra-constitutional" scheme for creating and joining international postal agencies and dealing with the international transmission of mails, as well as the handling of money orders, parcel post, express mail, and similar matters.

40. As specified in the International Organizations Immunities Act of 1945, the President may extend this status to any "public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation," and which are specifically designated by the President through executive orders.

See 59 Stat. 669; 22 USC 288. This paragraph in the USC also lists some 70 organizations upon which these privileges and immunities apply or formerly applied, and more recent
executive orders are published in the annual issues of the Public Papers of the Presidents of the United States. The text of the International Organizations Immunities Act of 1945 is also provided in Department of State 1950a, 167-172.

REFERENCES


Commonwealth


October 25.


Elmer Plischke


**PUBLIC PAPERS OF THE PRESIDENTS OF THE UNITED STATES.**


77
RECENT DEVELOPMENTS IN INTEREST GROUP ACTIVITY IN THE NORTHEASTERN STATES:
A COMPARATIVE PERSPECTIVE

Clive S. Thomas
University of Alaska
and
Ronald J. Hrebenar
University of Utah

This article uses a combination of qualitative and quantitative methods to analyze the contemporary interest group systems of eleven Northeastern states and compares these with the interest group systems in the fifty states as a whole. It is found that recent changes in the socio-economic and political life of the Northeast have affected surface aspects of the region's interest group systems, such as the range of groups represented and the styles of representation, and has extended power to some new interests to an extent greater than in any other region of the nation. However, recent changes have not altered the fundamental dominance of the policy process by traditional economic and institutional interests which enjoy a marked advantage in the possession of the resources necessary for political influence. The findings from the research also call into question existing theories of an inverse relationship between group power and (1) socio-economic development, (2) government professionalism, and (3) political party power in the Northeast and the states as a whole.

Judging by the focus of most general textbooks on American interest groups, these groups operate only at the national level in Washington, D.C. (see for example, Mundo, 1992; Mahood, 1990; Berry, 1989; Schlozman and Tierney, 1986). Yet, interest groups have always been very active at the state level as well as in local politics. In fact, because the states have generally been less socially and economically diverse, and thus less pluralistic politically than the nation as a whole, the
political significance of interest groups has often been much greater at the state level. This alone makes state interest groups worthy of more attention by scholars than they have hitherto received.

There are three other compelling reasons for studying state interest groups in contemporary America. First, the media and several scholars have identified major changes in interest group politics, including those in state capitals, during the last two decades (Gray, 1984). Second, according to one generally accepted theory, there is an inverse relationship between the strength of political parties and the strength of interest groups (Zeigler and van Dalen, 1976). Given this situation, the decline of political parties in recent years should result in interest groups playing an even more significant role in state capitals. Finally, the increased role of the states in the social and economic policy arenas since the 1960s, plus the reduction in the federal government’s role in these arenas since the early 1980s, has expanded the importance of the states in policy making.

This article assesses the significance of these changes and explores the contemporary importance of interest groups in the states by focusing on one region—the Northeast. Here we define the region as the eleven states of: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island and Vermont. While, like all regions of the country, the Northeast is amorphous and diverse (its two sub-regions of New England and the Mid-Atlantic states provide many contrasts, for example), it is seen as one of the four major sections of the nation because its states share common elements of heritage and development due largely to physical proximity. For research purposes the region is ideal as a microcosm of the nation: within its borders have existed every type of interest group system from the least to the most diverse, and from the least to the most competitive. Furthermore, previous research has identified the Northeast overall as having the weakest interest group systems (though not necessarily the weakest individual groups) due largely, it is argued, to the strength of the party systems in many of its states (Morehouse, 1981).

Two themes dominate this analysis of contemporary interest group activity in the Northeast. First, important changes have occurred in the interest group scene in all the region’s states over the last twenty-five years. The second theme is one of lingering traditions within interest group politics. Besides identifying instances of these two aspects of interest group activity, this article has two other purposes. One is to explain the contemporary characteristics of interest groups in Northeastern states in
Commonwealth

such areas as the types of active groups, group power and group tactics. The second is to seek an answer to the question: How different from other regions is the Northeast in regard to its interest group systems?

Previous Research on Northeastern Interest Groups

No book or article has ever been published on the subject of Northeastern interest group politics. The Northeast is not unique in this dearth of material on interest groups, however. The West, Midwest and particularly the South have numerous publications on their politics, parties, and regional issues, but very little material exists on their interest groups and group systems.

Seven types of studies have treated, or more often touched upon, interest group activity in the Northeast. First, there are a few books on the politics of the sub-regions of the Northeast, particularly New England. Duane Lockard's New England State Politics (1959) was the seminal work on the post-war politics of the sub-region. His work has been updated by two recent studies of New England parties and politics: Josephine Milburn and Victoria Schuck's New England Politics (1981) and Milburn and William Doyle's New England Political Parties (1983). However, interest groups are covered only tangentially in these books. This is also true of John Fenton's study of Border state politics which includes a brief discussion of Maryland's interest groups (Fenton, 1957).

Second, there is the treatment of interest groups in books on the government and politics of individual Northeastern states. Not all such books cover interest groups, however; and where they do the treatments vary widely. A third category consists of books which include Northeastern states as examples or case studies. But length limitations preclude these from paying more than cursory attention to interest groups.(1) Fourth, there is a small body of literature which has a public policy focus and has taken a case study approach to investigating the impact of individual groups. For example, William Browne's book (1988) on agricultural interest group politics provides information on agricultural groups and their role in both national and state political, economic and social life. A fifth category has taken what might be termed a micro approach to the study of group theory. These have looked at either some specific aspect of the internal organization and operation of groups, or how groups affect some specific part of the political process such as the legislature. Some of these studies have been
concerned solely with specific states such as Belle Zeller's study of lobbying in New York State (Zeller, 1937).

A sixth category, essentially journalistic treatments, also include information on Northeastern interest groups. John Gunther's 1940s survey of politics in America contains valuable insights on group activities in many states including those in the Northeast (Gunther, 1951). A 1970s version of the Gunther approach was the nine volume series by Neal R. Peirce on the people, politics and power of the various sub-regions of America (2). A more up-to-date journalistic source on the Northeastern states (and occasionally on their major interests) are the state profiles introducing each state's congressional delegation in the Almanac of American Politics (Barone and Ujifusa, 1989).

These six categories are a useful starting point in a study of Northeastern interest groups. Yet, because of variations in methodology and scope and depth of analysis, they are of very limited value for purposes of comparative analysis and for individual state analysis too. There is, however, a seventh category of literature that has been comparative in focus and has included the Northeastern states as part of nationwide studies of state interest groups. These have taken a macro approach by attempting to understand interest groups in the context of the state as a whole and particularly in relation to its socio-economic and its political and governmental system. The most notable work here has been conducted by Belle Zeller (1954), Harmon Zeigler and Hendrik van Dalen (1976), Zeigler (1983) and by Sarah McCally Morehouse (1981).

Despite the valuable contributions of these studies, all suffered from the same weakness. Their attempts at comprehensive analysis of both the Northeast and other regions were based upon original data from only a few states and drew upon other information (mainly the six categories referred to above) that varied in its methodology from the impressionistic to the quantitative. Therefore, the theories and propositions developed from these studies were arrived at by extrapolation, or by reliance on secondary sources, and sometimes, in the absence of data, by speculation. Despite such weaknesses these studies made significant contributions. Each was a major source for the evaluation of interest groups at the sub-national level--including the Northeast--at a time when little other data existed. In combination they have provided a benchmark for scholars conducting subsequent research.
Data and Definitions

The major source of data used in this article is taken from the Hrebenar-Thomas study, the first study of interest groups in all fifty states. The Northeast was the fourth and final phase of this study. Pre-1980 data on Northeastern interest groups was taken from historical background provided in the study and from previous writing, both academic and popular.

The project methodology involved five elements. First was a set of common definitions of terms such as interest group and lobbyist. Second, five common survey instruments were developed and made available to the researchers for use with legislators, legislative staffers, lobbyists, executive and administrative officials, and members of the press corps. These first two elements of the methodology provided the basis for a common core of information that facilitated comparative analysis. Third, each researcher was asked to gather as much empirical data as possible on lobby registrations, lobbyists and lobbying expenditures including political action committee (PAC) data from the appropriate state monitoring agency. The fourth aspect of the methodology was that each researcher was asked to identify ways in which his or her state's interest group system fit or varied from existing theories of interest group activity in the states as developed by researchers such as Zeller (1954), Zeigler and van Dalen (1976), Zeigler (1983) and Morehouse (1981). Fifth, we undertook a synthesis of all the data collected by using the first four elements of the methodology to produce the first comprehensive, comparative analysis of interest group activity in all fifty states including the Northeastern states.

As mentioned above, one major element of the methodology was the use of a common definition of interest group, interest, lobby, lobbyist and group power. Here the first four concepts will be defined; group power will be defined in a later section. Interest group was defined broadly to include the so-called "hidden groups" particularly government and especially state agencies (so-called institutional interest groups) as: an association of individuals or organizations, usually but not always formally organized, which attempts to influence public policy. The Delaware Bankers Association, the City of Manchester, New Hampshire and the State University of New York are all examples of interest groups. Interest groups are represented by one or more lobbyists. In our study a lobbyist was defined as: a person designated by an interest group to represent it to
government for the purpose of influencing public policy in that group's favor.

The terms interest and lobby are much more problematic to define precisely. Both are used in a variety of ways. Sometimes they are used to denote a specific interest group. But most often they are used as generic terms, and often synonymously and interchangeably, to refer to the collection of groups and organizations within a particular sector, such as business, labor or agriculture (the business lobby, the business interest, etc). While this may appear confusing, in most cases the particular meaning of interest and lobby is usually evident from the context in which it is used.

A Framework for Understanding and Comparing Interest Group Activity in the Northeastern States

In order to understand and to be able to compare interest group activity at the state level, including the Northeastern states, it is necessary to consider the major environmental factors that influence group activity. What determines: (1) the types of groups that are active in the states; (2) the methods (strategies and tactics) that they use in pursuing their goals; and (3) the role that groups play within state political systems and, in particular, the power that they exert within those systems. While little research has been conducted on this topic, scholars agree that the answers lie in a complex set of economic, social, cultural, legal, political, governmental and even geographical variables. And that these will vary in their combination from state to state, giving each state a unique interest group system.

Nevertheless, we have identified eight specific sets of factors which are of particular importance in all states. These we developed into a conceptual framework which is set out in Figure 1. This framework is a

---

FIGURE 1
EIGHT MAJOR FACTORS INFLUENCING THE MAKE-UP, OPERATING TECHNIQUES AND IMPACT ON PUBLIC POLICY OF INTEREST GROUP SYSTEMS IN THE STATES

1 State Policy Domain: Constitutional/legal authority of a state affects which groups will be politically active. Policies actually exercised by a state affects which groups will be most active. The policy priorities of a state will affect which groups are most influential.

2 Centralization/Decentralization of Spending: This refers to the amount of money spent by state governments versus that spent by local governments. The higher the percentage of state spending on individual programs and overall on services, the more intense will be lobbying in the state capital.
3 Political Attitudes: Especially political culture and political ideology viewed in terms of conservative/liberal attitudes. Affects the type and extent of policies performed; the level of integration/fragmentation and professionalization of the policy making process; acceptable lobbying techniques; and the comprehensiveness and stringency of enforcement of public disclosure laws, including lobby laws.

4 Level of Integration/Fragmentation of the Policy Process: Strength of political parties; power of the governor; number of directly elected cabinet members; number of independent boards and commissions; initiative, referendum and recall. Influences the number of access and influence points available to groups: greater integration decreases them, while more fragmentation increases these options.

5 Level of Professionalization of State Government: State legislators, support services, bureaucracy, including the governor's staff. Impacts the extent to which public officials need group resources and information. Also affects the level of professionalization of the lobbying system.

6 Level of Socio-Economic Development: Increased socio-economic diversity tends to produce: a more diverse and competitive group system; a decline in the dominance of one or an oligarchy of groups; new and more sophisticated techniques of lobbying such as an increase in contract lobbyists, lawyer-lobbyists, multi-client/multi-service lobbying firms, grassroots campaigns and public relations techniques, and an overall increase in the professionalization of lobbyists and lobbying.

7 Extensiveness and Enforcement of Public Disclosure Laws: Including lobby laws, campaign finance laws, PAC regulations, and conflict of interest provisions. Increases public information about lobbying activities which impacts the methods and techniques of lobbying, which in turn affects the power of certain groups and lobbyists.

8 Level of Campaign Costs and Sources of Support: As the proportion of group funding increases, especially that from PACs, group access and power increases.

Sources: Developed by the authors from research conducted for the Hrebenar-Thomas study.

synthesis of the findings from our Hrebenar-Thomas study. While all eight factors and their various elements are not new, what is original is the way that many of these elements have been used here, and the integration of the eight factors into a single conceptual framework. These eight factors and their components are very much interrelated in that they influence each other. A change in one factor may result in a change in one or more of the other factors. Any change at all is likely to affect the nature of group activity and major changes will have a significant impact on the interest group and lobbying scene in a particular state or the states as a whole.

A brief comparative example will help illustrate the value of this framework. We can use it to help explain the different group systems existing in Pennsylvania and Vermont. Pennsylvania has a more diversified group system operating in Harrisburg than Vermont does in Montpelier. This is partly because Pennsylvania is more industrialized than Vermont
which has moved from an agricultural to a tertiary production society without experiencing traditional industrialization (factor 6 in the framework). But lobbying in Montpelier is every bit as intense, if not more so, than in Harrisburg, largely because Vermont is more centralized administratively than Pennsylvania (factor 2 and 4). Varying political attitudes between the two states (factor 3) help explain other differences in the two group system. Pennsylvania with its predominantly individualistic political culture which views politics as a for-profit business has much less stringent lobby laws and political action committee regulations (factors 7 and 8) than Vermont with its moralistic political culture which has only recently been diluted by individualistic attitudes. Finally, with its more professionalized state government (factor 5), also partly a product of political attitudes, Pennsylvania has a more professional lobbying corps and a less receptive attitude among public officials to amateur lobbying efforts than is the case in Vermont. (4)

This analysis can be applied to compare other Northeastern states and, indeed, any two or more states across the nation. With this information about the use of terms and the value of the conceptual framework in mind, we can turn to a comparative analysis of interest groups in the Northeastern states.

Public Disclosure of Lobbying Activity in the Northeastern States: Registered and Non-Registered Groups

To fully appreciate the contemporary group scene in the Northeastern states and to understand the changes that have taken place in recent years, we need to realize that the actual lobbying activity that takes place is much more extensive than an examination of public disclosure information about interest groups reveals. This is because several types of groups and interests are not required to register in the Northeast. Consequently, as in all states, there are many non-registered or "hidden groups and lobbies" at work in the region.

Lobby laws, conflict of interest provisions, campaign finance disclosure, and rules regulating the activities of PACs, are the four types of provisions that help provide some public monitoring of interest group activity. While the first three types of provisions existed in most Northeastern states before the 1970s, and were probably the most extensive of any region at the time (Zeller, 1954: 217-25), these laws were usually weak and laxly enforced. It took the Watergate affair of 1973-74 to
generate a reform movement across the nation against political corruption and in favor of more extensive and stringently enforced public disclosure.

Lobby laws provide the most specific and comprehensive information about interest group activity. Yet, these laws vary considerably in their inclusiveness, their reporting requirements and the stringency with which they are enforced. This is the case both across the nation and within the Northeast (Opheim, 1991; Thomas and Hrebenar, 1991). Variation in who is and who is not required to register as a lobbyist under Northeastern state laws produces a wide range across the region in the number of persons registering as lobbyists as well as those registering as lobbying organizations (the employers or clients of lobbyists, known in state capital parlance as principals). Pennsylvania law, for example, is loose enough not to require many social issue and public interest groups to register. No Northeastern state, including Vermont, requires public officials to register as lobbyists (COGEL, 1990: 149-52).

In fact, the largest of the non-registered or hidden lobbies in the states is government, particularly state agencies, boards and commissions, and local governments. Because of the increasing reliance of the Northeast on government, these are very significant lobbying forces in the region's states even those with diversifies economies like Pennsylvania, Massachusetts and New York. The Hrebenar-Thomas research on Northeastern states indicates that a rough estimate would be that as many as one fourth of those "lobbyists" working the halls of state government in the region on any one day represent government. So to obtain an accurate picture of interest group activity in the Northeast we cannot ignore government even though studying its lobbying role presents problems due to the absence of information.

Interests Active in the Northeastern States Today

Although no comparative research exists on the development of interest groups in the states before the 1950s, the bits and pieces of information that are available suggest that, of the four major regions of the nation, the Northeast has always had the most diverse interest group system. However, even here a very narrow range of interests existed down to World War II, particularly in states like Vermont, Maine and New Hampshire. As in other regions, business interests and agriculture appear to have been dominant in the Northeast in the early twentieth century. From the late 1930s on, these were joined by local government groups, labor unions and
education interests, especially school teachers. Together these five so-called traditional interests—business, agriculture, labor, local government and education—formed the major interests operating in state capitals in the Northeast, and in the states in general, as late as the mid-1960s (Zeigler, 1983: 99).

Of all the aspects of change in interest group life documented in the eleven Northeastern states in the last thirty years most striking is the considerable expansion in group activity. This expansion has had three dimensions. First, there has been a marked increase in the number of groups seeking to influence state government. Second, the range of interests has also expanded, as new interests, such as social issue, public interest, and single-issue groups entered the political arena, and as traditional interests fragmented. Fragmentation has been particularly evident within the business and local government lobbies. The third dimension is that groups are lobbying more intensively than was the case twenty or even ten years ago. They have more frequent contact with public officials and use more sophisticated techniques.

Given the shortcomings of lobby registration records, the definition of an interest group set out earlier is used to obtain as accurate a picture as possible of the range of groups and interests operating in Northeastern state capitals today. This range of groups is set out in Table 1. Interests are listed on the basis of two criteria. The first is the extent of their presence in the eleven states. This is indicated by the two columns. The second criteria is whether an interest is continually active in the states where it is present,

### TABLE 1

**INTERESTS ACTIVE IN THE NORTHEASTERN STATES TODAY**

<table>
<thead>
<tr>
<th>Present in All 11 States</th>
<th>Present in 1-10 States</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>CONTINUALLY ACTIVE</strong></td>
<td></td>
</tr>
<tr>
<td>Individual Business Corporations (1)</td>
<td>Health Care Corporations</td>
</tr>
<tr>
<td>Local Government Units (cities, districts, etc.)</td>
<td>Agri-business Corporations</td>
</tr>
<tr>
<td>State Departments, Boards &amp; Commissions</td>
<td>Latino Groups</td>
</tr>
<tr>
<td>Business Trade Associations</td>
<td>Gaming/Race Tracks</td>
</tr>
<tr>
<td>Utility Companies and Associations (public and private)</td>
<td>Commercial Fishing Interests</td>
</tr>
<tr>
<td>Financial Institutions/Associations</td>
<td>Banks and Sportsmen’s Groups (esp hunting &amp; fishing)</td>
</tr>
<tr>
<td>Insurance Companies/Associations</td>
<td></td>
</tr>
</tbody>
</table>

87
Commonwealth

<table>
<thead>
<tr>
<th>Present in All 11 States</th>
<th>Present in 1-10 States</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>CONTINUALLY ACTIVE</strong>  (cont.)</td>
<td></td>
</tr>
</tbody>
</table>
| Public Employee Unions/Associations  
  (state and local) | Mining/Quarrying Companies  
  Forest Product Companies |
| Universities and Colleges (public & private) |                        |
| School Teachers Unions/Associations |                        |
| Local Government Associations |                        |
| Farmers' Organizations/Commodity Associations |                        |
| Traditional Labor Unions |                        |
| Labor Associations (mainly AFL-CIO) |                        |
| Environmentalists |                        |
| Oil and Gas Companies/Associations |                        |
| Hospital Associations |                        |
| Tourism Groups |                        |
| Railroads |                        |

<table>
<thead>
<tr>
<th><strong>INTERMITTENLY ACTIVE</strong></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Doctors</td>
<td>Taxpayers Groups</td>
</tr>
<tr>
<td>Trial Lawyers/Stat’Bar Associations</td>
<td>Native American Groups</td>
</tr>
<tr>
<td>Retailers’ Associations</td>
<td>Animal Rights Groups</td>
</tr>
<tr>
<td>Contractors/Real Estate</td>
<td>Welfare Rights Groups</td>
</tr>
<tr>
<td>Liquor Interests</td>
<td>Foreign Businesses (esp from Japan)</td>
</tr>
</tbody>
</table>
| Communication Interests  
  (telecommunication, cable TV etc.) | Children’s Rights Groups |
| Truckers | Media Associations |
| Women’s Groups | Pro & Anti Smoking Interests |
| Black American Groups | Groups for the Arts |
| Pro & Anti Abortion Groups |                        |
| Religious Groups |                        |
| Senior Citizens |                        |
| Social Service Groups & Coalitions |                        |
| Good Government Groups  
  (League of Women Voters, Common Cause) |                        |
| American Civil Liberties Union |                        |
| Federal Agencies |                        |
| Groups for the Physically & Mentally Handicapped |                        |
| Student Groups |                        |
| Nurses |                        |
| Chiropractors |                        |
| Parent Teachers Associations |                        |
| Consumer Groups |                        |
| Veterans’ Groups |                        |
| Moral Majority |                        |
| Community Groups |                        |
| Pro & Anti Gun Control Groups |                        |

(1) An unavoidably broad category. It includes manufacturing and service corporations with the exception of those listed separately, e.g., private utilities and oil and gas companies. These and other business corporations were listed separately because of their frequency of presence across the Northeastern states.

(2) Another unavoidably broad category. It includes chambers of commerce as well as specific trade associations, e.g., Truckers, Air Carriers, Manufacturers’ Associations, etc.

Source: Compiled by the authors from the eleven state studies of the Northeast conducted for the Hrebenar-Thomas study.
or intermittently active in some or all states. Both in the continually and the intermittently active sections, interests are listed in order of the estimated intensity of their lobbying efforts across the region.

Well over half of the interests appear in the first column, indicating that they are present in all eleven states. Although not all are continually active, this means that a very broad range of interests, both public and private, operate in the Northeast today, though as much as seventy-five percent of the lobbying effort in terms of time and money is probably attributable to the nineteen interests in the continually active section of column one.

It is important to note, however, that the diversity of the group system will vary from state to state. It is also important not to equate presence with power. Just because a group or interest is active in a Northeastern state does not by itself assure its success in achieving its goals. Anti-abortionist groups, for example, have been very active in Northeastern state capitals in recent years but, with the exception of Pennsylvania, they have met with little success.

Interest Group Influence on Public Policy in the Northeast

The concept of interest group power can denote two separate though interrelated notions. It may refer to the ability of an individual group or lobby to achieve its policy goals. Alternately, it may refer to the strength of interest groups as a whole within a state's political system; or the strength of groups relative to other organizations or institutions, particularly political parties.

The Influence of Individual Groups and Interests.

Understanding the influence of individual groups and lobbies has proven to be one of the most problematic aspects of the study of interest groups. The problems relate less to the question of definition than they do to the method of assessment. Three methods have been used to assess individual group power: purely objective or empirical criteria; the perceptual method, relying on the perceptions of politicians, bureaucrats and political observers; and a combination of these two approaches. The approach used here is the latter course: the perceptual method is combined with an attempt to inject objectivity and consistency into the research by using quantitative techniques to analyze the responses. The definition of individual group power used in this study, which also incorporates the
method of assessment is: a group's ability to achieve its goals as it defines them, and as perceived by those directly involved in or who observe the public policy-making process (e.g., present and former: legislators, legislative and executive branch staffers, bureaucrats, other lobbyists, journalists, etc.).

A decade ago, Sarah McCally Morehouse produced the first listing of the most influential groups and lobbies in the fifty states. A major aspect of the research for the Hrebenar-Thomas study was to compile a listing of the most influential groups in all fifty states as of the late 1980s. By comparing the two listings we can discern several trends regarding the influence of individual groups and interests in the Northeastern states.(5)

One major trend is that the days of states being run by one or two dominant interests--like the pulp companies in New Hampshire--are virtually gone. In other words, there are no longer any "company states." And unlike the South and West, there appear to be no Northeastern states with even one prominent interest these days--not even DuPont in Delaware. All interests must share power with other groups. Thus as the result of expanding political pluralism, the days when one or a few interests could dictate policy on a wide range of issues appears to be gone for ever. But we should not infer that the decline in dominance of individual interests has also meant the decline of group systems as a whole. This has not been the case, as we will explain below.

As to the power status of the so-called traditional interests in the region--business, education, local government, labor and agriculture--the first three of these have maintained or enhanced their power while one appears to have lost some ground, and another has declined markedly. Education interests, especially schoolteachers, and business remain very influential--in fact, these are the most powerful interests in the region and in the fifty states as a whole.

Contrary to some predictions, increased political pluralism and fragmentation within the business community has not significantly affected its power overall. Certainly, in some instances businesses like railroads and some natural resource enterprises (such as forestry in Maine and New Hampshire) have declined; but these have been replaced by service and other businesses among the ranks of the most powerful groups. The insurance business is particularly strong in the region. Overall, business groups are more powerful in the Northeast than in any other region. This continued power of business is one of the major threads of continuity in group life in the region.
On the other hand, traditional labor groups have suffered some loss of power even though they still rank among the most influential interests in most Northeastern states. In the last ten to fifteen years a new phase in the power of labor has emerged. This has been in the form of teachers' and state and local public employees' associations. The rise of state employees associations is a noteworthy phenomena in the changing configuration of group power in the region's capitals. It appears to be linked to the increased role of government since the 1960s. This rise has also enhanced the power of many state agencies, particularly departments of education and transportation and state university systems. However, this is not a trend peculiar to the Northeast. It is also a major trends in group activity in the other thirty-nine states.

Agriculture has suffered the greatest loss of power of the five traditional interests in the Northeast. The Hrebenar-Thomas study reveals that general farm organizations, like the Farm Bureau, are significant political forces in only a few states today; and no specialized farm commodity group (such as dairy farmers) was mentioned as influential in any of the eleven states. This, no doubt, reflects the changing economy even of the rural states of the Northeast.

As to newer groups and interests, the most notable gains have been made by environmentalists, senior citizens and good government groups. These groups rank higher in influence in Northeastern states than in any other region of the nation. This may reflect the relatively liberal orientation of the region. On the other hand, sportsmen's organizations, including anti-gun control interests, have also made gains. As it did in the rest of the states, the issue of tort reform, particularly the desire by many to place a cap on awards in damage suits, brought three of the most well-financed and well-organized interests, doctors, lawyers and insurance companies, into the ranks of the most effective interests in the Northeast during the late 1980s. Then there have been a series of successes by single-issue groups as diverse as anti-ERA groups and MADD--Mothers Against Drunk Driving.

Similar to the experience in other regions, in the Northeast the successes of other interests, including social issue, women's and minority groups have been much less significant. Part of the reason lies in the factors which constitute individual group power. The players in the game may have changed by the addition of new groups, but the rules of success, particularly command of resources and developing long-term relationships with public officials, remain virtually unchanged. Here is another aspect of continuity in Northeastern group politics and in the states as a whole.
Table 2 provides a comparison among the most influential interests in the Northeast, those in the fifty states as a whole, and those in the other three regions. From this we can see the dominance of certain economic interests in the region and the comparatively lower ranking or absence of other interests, such as agriculture. But perhaps the most enlightening aspect of the table is the similarity in power between interests in the Northeast, the other regions and the fifty states overall.

Group System Power

Understanding overall group power within a political system has proven even more problematic than that of individual group power. This is primarily because there are so many variables, many of which may still be unidentified. Consequently, assessments of overall group power are crude at best. While much important pioneering work has been conducted in attempting to assess overall group power, the methods vary and the results have been mixed leaving many unanswered questions.

The first attempt to assess overall group power was made by Belle Zeller. This was based entirely on the assessments of political scientists. Nevertheless, the study established the principle that group strength was primarily a function of political party strength and was inversely proportionate to it (Zeller, 1954: 190-93). Subsequent research built upon this and attempted to provide a more scientific basis. Work by Morehouse, for example, used measures of party strength to more accurately define the relationship (Morehouse, 1981: 107-17). Zeigler and van Dalen (1976: 94-110) and Zeigler (1983: 111-15) added the variable of economic and social development. These theories predicted the gradual transformation of strong group systems into moderate and eventually into weak systems as economic and social pluralism advanced. The results from the Hrebenar-Thomas study provide an alternative way of approaching and understanding overall group power.

Most problematic is the categorization of states into strong, moderate and weak group systems. This gives the mistaken impression that in some states groups are literally weak or virtually powerless and therefore of little, if any, significance in state politics. Morehouse classified five of the Northeastern states as having weak interest group systems: Connecticut, Massachusetts, New Jersey, New York and Rhode Island (Morehouse, 1981: 111-12). However, even in states where groups are not all-powerful, certain organizations may exert considerable influence, such as...
<table>
<thead>
<tr>
<th>Interest and Overall Rank in the Fifty States</th>
<th>Northeast</th>
<th>Overall Rank in the Midwest</th>
<th>South</th>
<th>West</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. School Teachers' Organizations (predominantly NEA)</td>
<td>2</td>
<td>1</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>2. General Business Organizations (Chambers of Commerce, etc.)</td>
<td>1</td>
<td>4</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>3. Bankers' Associations (includes Savings &amp; Loan Associations)</td>
<td>10</td>
<td>2</td>
<td>2</td>
<td>7</td>
</tr>
<tr>
<td>4. Manufacturers (companies &amp; associations)</td>
<td>5*</td>
<td>9*</td>
<td>4</td>
<td>8*</td>
</tr>
<tr>
<td>5. Traditional Labor Associations (predominantly the AFL-CIO)</td>
<td>4</td>
<td>3</td>
<td>10</td>
<td>8*</td>
</tr>
<tr>
<td>6. Utility Companies &amp; Associations (electric, gas, telephone, water)</td>
<td>9</td>
<td>11</td>
<td>7</td>
<td>2</td>
</tr>
<tr>
<td>7. Individual Banks &amp; Financial Institutions</td>
<td>7</td>
<td>13</td>
<td>9</td>
<td>6</td>
</tr>
<tr>
<td>8. Lawyers (predominantly State Bar Associations &amp; Trial Lawyers)</td>
<td>12</td>
<td>5</td>
<td>5</td>
<td>15</td>
</tr>
<tr>
<td>9. General Local Government Organizations (Municipal Leagues, County Organizations, etc.)</td>
<td>5*</td>
<td>17*</td>
<td>12</td>
<td>4</td>
</tr>
<tr>
<td>10. General Farm Organizations (mainly state Farm Bureaus)</td>
<td>26</td>
<td>6</td>
<td>8</td>
<td>11</td>
</tr>
<tr>
<td>Interest and Overall Rank in the Fifty States</td>
<td>Northeast</td>
<td>Overall Rank in the Midwest</td>
<td>South</td>
<td>West</td>
</tr>
<tr>
<td>---------------------------------------------</td>
<td>-----------</td>
<td>-----------------------------</td>
<td>-------</td>
<td>------</td>
</tr>
<tr>
<td>11. Doctors</td>
<td>17*</td>
<td>7</td>
<td>6</td>
<td>16</td>
</tr>
<tr>
<td>12. State &amp; Local Government Employees (other than teachers)</td>
<td>8</td>
<td>20</td>
<td>11</td>
<td>5</td>
</tr>
<tr>
<td>13. Insurance (companies &amp; associations)</td>
<td>8</td>
<td>15</td>
<td>22*</td>
<td>17</td>
</tr>
<tr>
<td>14. Realtors' Associations</td>
<td>11</td>
<td>14</td>
<td>20*</td>
<td>22</td>
</tr>
<tr>
<td>15. Individual Traditional Labor Unions (Teamsters, UAW, etc.)</td>
<td>13</td>
<td>8</td>
<td>27</td>
<td>23*</td>
</tr>
<tr>
<td>16. K-12 Education Interests (other than teachers)</td>
<td>23*</td>
<td>16</td>
<td>16</td>
<td>19</td>
</tr>
<tr>
<td>17. Health Care Groups (other than doctors)</td>
<td>15</td>
<td>12</td>
<td>28*</td>
<td>31</td>
</tr>
<tr>
<td>18. Agricultural Commodity Organizations (stockgrowers, grain growers, etc.,)</td>
<td>NM**</td>
<td>23*</td>
<td>20*</td>
<td>8*</td>
</tr>
<tr>
<td>19. Universities and Colleges (institutions and personnel)</td>
<td>23*</td>
<td>17*</td>
<td>22*</td>
<td>18</td>
</tr>
<tr>
<td>20. Oil and Gas (companies &amp; associations)</td>
<td>30*</td>
<td>23*</td>
<td>19</td>
<td>13*</td>
</tr>
<tr>
<td>21. Retailers (companies &amp; trade associations)</td>
<td>21</td>
<td>9*</td>
<td>17*</td>
<td>NM**</td>
</tr>
<tr>
<td>22. Contractors/Builders/Developers</td>
<td>16</td>
<td>33*</td>
<td>13*</td>
<td>20</td>
</tr>
<tr>
<td>23. Environmentalists</td>
<td>14</td>
<td>26*</td>
<td>25*</td>
<td>25*</td>
</tr>
<tr>
<td>Interest and Overall Rank in the Fifty States</td>
<td>Northeast</td>
<td>Overall Rank in the Midwest</td>
<td>Overall Rank in the South</td>
<td>Overall Rank in the West</td>
</tr>
<tr>
<td>---------------------------------------------</td>
<td>-----------</td>
<td>-----------------------------</td>
<td>---------------------------</td>
<td>-------------------------</td>
</tr>
<tr>
<td>24. Individual Cities and Towns</td>
<td>20</td>
<td>23*</td>
<td>34*</td>
<td>13*</td>
</tr>
<tr>
<td>25. Liquor, Wine and Beer Interests</td>
<td>30*</td>
<td>21</td>
<td>17*</td>
<td>25*</td>
</tr>
<tr>
<td>26. Mining Companies &amp; Assoc.</td>
<td>NM**</td>
<td>22</td>
<td>28*</td>
<td>12</td>
</tr>
<tr>
<td>27. Truckers and Private Transport Interests (excluding railroads)</td>
<td>27*</td>
<td>28*</td>
<td>13*</td>
<td>29*</td>
</tr>
<tr>
<td>28. Public Interest/Good Government Groups</td>
<td>17*</td>
<td>NM**</td>
<td>25*</td>
<td>35</td>
</tr>
<tr>
<td>29. State Agencies</td>
<td>35*</td>
<td>28*</td>
<td>13*</td>
<td>NM**</td>
</tr>
<tr>
<td>30. Forest Product Companies</td>
<td>27*</td>
<td>NM**</td>
<td>28*</td>
<td>23*</td>
</tr>
<tr>
<td>31. Senior Citizens</td>
<td>17*</td>
<td>31*</td>
<td>34*</td>
<td>28</td>
</tr>
<tr>
<td>32. Railroads</td>
<td>NM**</td>
<td>31*</td>
<td>22*</td>
<td>33*</td>
</tr>
<tr>
<td>33. Women and Minorities</td>
<td>35*</td>
<td>NM**</td>
<td>32*</td>
<td>21</td>
</tr>
<tr>
<td>34. Religious Interests</td>
<td>28*</td>
<td>NM**</td>
<td>34*</td>
<td>27</td>
</tr>
<tr>
<td>35. Sportsmen/Hunting &amp; Fishing (includes anti-gun control groups)</td>
<td>22</td>
<td>28*</td>
<td>34*</td>
<td>NM**</td>
</tr>
<tr>
<td>36. Gaming Interests (race tracks/casinos/lotteries)</td>
<td>30*</td>
<td>33*</td>
<td>32*</td>
<td>32</td>
</tr>
<tr>
<td>Interest and Overall Rank in the Fifty States</td>
<td>Overall Rank in the Northeast</td>
<td>Overall Rank in the Midwest</td>
<td>Overall Rank in the South</td>
<td>Overall Rank in the West</td>
</tr>
<tr>
<td>---------------------------------------------</td>
<td>-----------------------------</td>
<td>---------------------------</td>
<td>--------------------------</td>
<td>------------------------</td>
</tr>
<tr>
<td>37. Anti-Abortionists*</td>
<td>NM**</td>
<td>19</td>
<td>NM**</td>
<td>NM**</td>
</tr>
<tr>
<td>Tourist Industry Groups*</td>
<td>27*</td>
<td>33*</td>
<td>NM**</td>
<td>29*</td>
</tr>
<tr>
<td>38. Newspapers/Media Interests*</td>
<td>35*</td>
<td>33*</td>
<td>31</td>
<td>NM**</td>
</tr>
<tr>
<td>Taxpayers' Groups*</td>
<td>35*</td>
<td>26*</td>
<td>NM**</td>
<td>33*</td>
</tr>
<tr>
<td>39. Tobacco Lobby</td>
<td>30*</td>
<td>NM**</td>
<td>NM**</td>
<td>NM**</td>
</tr>
<tr>
<td>40. Miscellaneous (All other groups mentioned)</td>
<td>30*(1)</td>
<td>NOM***</td>
<td>34*(2)</td>
<td>NOM***</td>
</tr>
</tbody>
</table>

*Tied ranking
**NM Not mentioned as an effective interest in any state in the region.
***NOM No other groups mentioned as effective in the region.

(1) The only other two groups mentioned in the region were Certified Accountants in Rhode Island and a group in Vermont for the mentally ill.
(2) The only other group mentioned in the entire region was legislative caucuses in Louisiana.


manufacturers in Massachusetts and insurance in Connecticut. What is needed is a terminology to describe the overall impact of groups which avoids the misimpressions given by existing designations and which conveys the degree of their combined significance in state public policy making vis-à-vis other political institutions. A way to do this is to designate the impact
of the group system as having a dominant, a complementary or a subordinate impact in relation to other aspects of the system, or a combination of two of these.

Drawing on the research from the Hrebenar-Thomas study we classified the fifty states according to their impact on their respective state policy making systems. This is presented in Table 3. For purposes of comparison, the Table is organized by region. This enables us to place the Northeast in perspective with all other regions and states. States listed in

**TABLE 3**

CLASSIFICATION OF THE ELEVEN NORTHEASTERN STATES BY OVERALL IMPACT OF INTEREST GROUPS AND COMPARISON WITH STATES IN OTHER REGIONS

States Where the Overall Impact of Interest Groups is:

<table>
<thead>
<tr>
<th>Dominant</th>
<th>Dominant/Complementary</th>
<th>Complementary</th>
<th>Complementary/Subordinate</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>NORTHEAST</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maine</td>
<td>Connecticut</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Maryland</td>
<td>Delaware</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Massachusetts</td>
<td>Rhode Island</td>
<td></td>
<td></td>
</tr>
<tr>
<td>New Hampshire</td>
<td>Vermont</td>
<td></td>
<td></td>
</tr>
<tr>
<td>New Jersey</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New York</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pennsylvania</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>MIDWEST</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nebraska</td>
<td>Illinois</td>
<td></td>
<td>Minnesota</td>
</tr>
<tr>
<td>Ohio</td>
<td>Indiana</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Iowa</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Kansas</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Michigan</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Missouri</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>North Dakota</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>South Dakota</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Wisconsin</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
### Commonwealth

#### SOUTH

<table>
<thead>
<tr>
<th>State</th>
<th>Arkansas</th>
<th>North Carolina</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alabama</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Florida</td>
<td>Georgia</td>
<td></td>
</tr>
<tr>
<td>Louisiana</td>
<td>Kentucky</td>
<td></td>
</tr>
<tr>
<td>Mississippi</td>
<td>Oklahoma</td>
<td></td>
</tr>
<tr>
<td>South Carolina</td>
<td>Texas</td>
<td></td>
</tr>
<tr>
<td>Tennessee</td>
<td>Virginia</td>
<td></td>
</tr>
<tr>
<td>West Virginia</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

#### WEST

<table>
<thead>
<tr>
<th>State</th>
<th>Arizona</th>
<th>California</th>
<th>Colorado</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alaska</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New Mexico</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hawaii</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Idaho</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Montana</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nevada</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oregon</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Utah</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Washington</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wyoming</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note: The subordinate column contains no states and has been consequently left out of this table.

Source: Compiled by the author from the research for the Hrebenar-Thomas study.

The *dominant* column are those in which groups as a whole are the overwhelming and consistent influence on policy making. The *complementary* column contains those states where groups have to work in conjunction with or are constrained by other aspects of the political system. Most often this is the party system; but it could also be a strong executive branch, competition between groups, the political culture or a combination of all these. The *subordinate* column represents a situation where the group system is consistently subordinated to other aspects of the policy making process. The absence of any states in this column indicates that research reveals that groups are not consistently subordinate in any state. The *dominant/complementary* column includes those states whose group systems
alternate between the two situations or are in the process of moving from one to the other. Likewise with the complementary/subordinate column.

Seven of the eleven Northeastern states appear in the complementary column, the other four in the complementary/subordinate category. This places the Northeast fourth out of the four major regions in the overall power of its interest group system, behind the South (with by far the most powerful system) the West, and the Midwest. Interestingly, while she used a different terminology and a impressionistic methodology, these findings are similar to those of Morehouse a decade ago. This is another example of some continuity in Northeastern interest group politics. Overall, however, and using the Morehouse assessment as a benchmark, there has been a general increase in the power of Northeastern interest group systems over the past decade.

Yet, while the general findings of the Morehouse and the Hrebenar-Thomas studies may be similar, these mask difference in the reasons for shifts in group system power. Furthermore, the Hrebenar-Thomas study takes issue with previous explanations by other scholars in regard to group system power. Existing research would argue that the decline in party strength in some Northeastern states over the last decade is responsible for the slight increase in overall group system power. The affect of party is far from clear in this regard, however, as we will see below. Moreover, existing explanations predict that the increased socio-economic diversity and governmental (especially bureaucratic) professionalism that have occurred in the Northeast would have produced even weaker systems than a decade ago. In fact, the very reverse has been the case.

The fifty state findings from the Hrebenar-Thomas study strongly suggest that the inverse relationship between party strength and group impact does not always hold, and socio-economic development and increased professionalization in government does not always lessen the impact of groups on a state's political system. This is not to argue that these variables are not significant; rather, it is to say that their effects on overall group power appear to be different than originally predicted. For instance, it is generally the case that party strength has considerable influence on the overall impact of groups; and it could be that in the case of the Northeast the party strength-group strength inverse relationship is still significant. However, while weak party systems are invariably accompanied by dominant group systems, strong parties do not always mean weak interest group systems, as New York and Pennsylvania attest. Furthermore, recent
Commonwealth

political history in Vermont demonstrates that increasing party competition and bureaucratic professionalism may not result in a decrease in overall group influence, and can be accompanied by the reverse situation.

Consequently, another key finding from the Hrebenar-Thomas study is that there is no automatic progression from dominant to subordinate status resulting from socio-economic development and increased professionalization of government, or to use the old terminology, from strong to moderate to weak systems. In fact, groups often increase their influence as such developments occur. The rise of PACs, for example, may, in part, be countering the other forces that would normally produce weaker interest group systems. And increased bureaucratic professionalism may encourage legislators to seek out lobbyists to obtain countervailing sources of information to the administration’s point of view. All this leads to the conclusion that party strength, socio-economic development and professionalization are not the only factors that influence overall group power, and in some circumstances they may not be the most important variables. What is needed is a more extensive explanation. However, one major problem in developing such an explanation is that the impact of the many variables that influence overall group power appear to vary from state to state and from time to time within a state, and so the combined influence of these variables will vary accordingly.

Interest Group Tactics and Lobbyists in the Northeast

In the Northeast, as elsewhere, by far the most common and still the most effective of group tactics is the use of one or more lobbyists. In fact, until very recently it was the only tactical device used by the vast majority of groups, and it remains the sole approach used by many groups today.

Overall, the state capital lobbying community has become much more pluralistic and has advanced greatly in its level of professionalism during the last twenty years. Contract lobbyists (those hired for a fee specifically to lobby) appear to have made the greatest strides in professionalism, but in-house lobbyists (regular employees of businesses, organizations or associations), particularly those representing associations, have also made such advances. While the level of professionalism varies from state to state, its general increase among contract lobbyists is evidenced by several developments. These include: an increase in the number of those working at the job full-time; the emergence of lobbying
firms which often provide a variety of services and represent up to as many as twenty five clients, such as Carroll J. Hughes in Connecticut; and an increased specialization on the part of many contract lobbyists in response to the increasing complexity of government. There has also been an increase in women acting as lobbyists. The Northeast has more women lobbyists than any other region.

Since the 1960s increased competition between groups as their numbers expanded, the changing needs of public officials, and an increased public awareness of both the activities and potential of interest groups, have spawned other tactical devices to supplement the work of the lobbyist. These include: mobilizing grass-roots support through networking (sophisticated member contact systems); public relations and media campaigns; building coalitions with other groups; and contributing workers and especially money to election campaigns particularly by establishing a PAC. Yet it is important to note that such tactics are not viewed as a substitute for a lobbyist. Rather, they are employed as a means of enhancing the ability of the group’s lobbyists to access and influence public officials. Shrewd and experienced group leaders and lobbyists choose the most cost efficient and politically effective method that they can to achieve their goals. In most cases this means establishing lobbyist-public official contacts that involve a minimum of other group members. They employ the newer techniques only if absolutely necessary. This is partly because public relations campaigns, setting up networks and contributing to election campaigns are all very costly. Equally important is that, the more people involved in a campaign and the more complex the strategy, the harder it is to orchestrate. Nevertheless, for the reasons we related above, these new techniques are being widely and increasingly used in the Northeast as elsewhere. We might also speculate that the use of these new techniques and the increased intensity of lobbying is another reason why groups and group systems have tended to enhance their power recently, both in the Northeast and elsewhere.

How Different are Interest Group Systems in the Northeastern States?

As with most aspects of its politics and government, the interest group systems and interest group politics in the Northeastern states exhibit both similarities and differences when compared to the other thirty nine states. However, if we ask the question: Are there any features of interest group activity that are uniquely Northeastern, the answer is probably no.
This is because, while there are certainly variations in group systems and activity between regions, these are essentially circumstantial rather than indigenous or uniquely regional. This is illustrated by the fact that Pennsylvania's and New York's interest group systems are far more akin to populous and economically and socially diverse states like California, Illinois and Florida than to states like New Hampshire, Maine or Vermont. As in any region of the country, it is a state's level of socio-economic and political development that is the primary determining factor in shaping its interest group system, and less so the region in which it is located. Thus, differences between the more rural and the more industrialized states of the Northeast can be explained mainly by reference to differences in their economies and social make-up as set out in the conceptual framework earlier in this article. Furthermore, developments in the past twenty-five years have tended to reduce differences in group systems and group politics across the states as these become more like their counterpart in Washington, D. C.

Traditional economic and institutional interests still exert the most consistent influence on public policy in the Northeast. These are primarily business and professional groups, as well as state and local government agencies. It is primarily their command of extensive resources that has enabled these interests to maintain, and in some cases enhance, their influence. On the other hand, there have been major developments over the last two decades in the range of groups operating in Northeastern state capitals resulting in increased political participation for causes and individuals not previously represented. In fact, some new groups—environmentalists, senior citizens and good government groups—fare better in the Northeast than in any other region. Women also appear to have a greater presence as lobbyists in the Northeast than in any other region. These unique features probably reflects the liberal orientation of some of the region's states and the fact that the Northeast's economic and social diversity has given it the most diverse interest group system of any region in the nation.

NOTES

3. This study which took eight years to complete (1983-91) involved seventy eight political scientist. The researchers for the eleven Northeastern states, upon whose work this article is based, were: Connecticut, Sarah McCally Morehouse, University of Connecticut, Stamford; Delaware, Janet B. Johnson and Joseph A. Pika, University of Delaware; Maine, Douglas I. Hodgkin, Bates College; Maryland, Ronald C. Lippincott and Larry W. Thomas, University of Baltimore; Massachusetts, John Berg, Suffolk University; New Hampshire, Robert G. Egbert and Michelle A. Fistek, Plymouth State College; New Jersey, Barbara Salmore, Drew University and Stephen Salmore, Rutgers University; New York, David L. Cingranelli, State University of New York at Binghamton; Pennsylvania, Patricia M. Crotty, East Stroudsburg University; Rhode Island, Mark S. Hyde, Providence College; and Vermont, Frank Bryan and Ann Hallowell, University of Vermont. The full results on the Northeast can be found in Hrebenar and Thomas, (1993).

4. The information on Pennsylvania and Vermont in this paragraph draws heavily on the work on those states conducd for the Hrebenar-Thomas study. See note 3 above.

5. Morehouse's listing of the most significant groups in state politics, (Morehouse, 1981: 108-12) was based largely on secondary sources particularly the series of books on the regions of the United States by Peirce. See her list of sources (Morehouse, 1981: 112). The Hrebenar-Thomas listing, including the eleven Northeastern states, can be found in Gray, Jacob and Albritton (1990: Appendix A, 560-67).

REFERENCES


Books reviewed in this essay:


Renewed interest in political theory and resurgent demands to teach the great books of western civilization as part of encouraging cultural literacy have led to increased interest in college political theory courses.
Consequently, there is a need for suitable class texts. For many instructors this means that students must purchase six to ten or more books by the great thinkers. This approach is often expensive, can limit time given to secondary commentary, and may not be suitable for some students. However, professors searching for introductory texts will find a ready supply of alternatives. Herewith, a review of some texts for the basic, or introductory, political theory course, most published within the last two years.

The seven texts surveyed fall into two basic types. One is the anthology that consists for the most part of excerpts of selected classic writers, such as the two Ebenstein volumes, Morgan, and the work of the Losco and Williams. The other type of text is composed mainly of the author's commentary with copious excerpts from original works. In general, the former are more sophisticated and geared more to middle and advanced political theory classes, while the latter are clearly intended for introductory or first year political theory classes.

Another notable feature of these texts is their very traditional approach. Despite recent debates about multiculturalism, none included any female political theorists, such as Wollstonecraft or devoted any significant attention to family or gender issues. For example, only Ebenstein's Great Political Thinkers and the Losco/Williams volumes include Mill's Subjection of Women, and none of the commentary books include more than a brief mention of this work. Neither Sheldon, Wiser, nor Nelson even cites Subjection of Women in the appendix. Additionally, some texts such as Losco/Williams omit the chapter on the family in Locke's Second Treatise, and no book examines the differences in education between men and women in Rousseau's Emile.

These texts are also stronger in addressing the core Greek-Christian-liberal tradition than they are in exploring the marxist and continental traditions of philosophy. Generally, the books approach political theory in terms of some type of Ancients versus Moderns debate. With the exception of Wiser's one chapter on Bacon and Descartes, none of the books directly address the scientific revolution of the seventeenth century, nor do any explore the role of science in challenging Christian and Greek thinkers or the view of the universe that sustained the political vision of both. Ignoring this is clearly a major gap in all the books reviewed.

Finally, for those searching for texts that look at recent trends in political theory, e.g. twentieth century Marxism after the collapse of the Soviet Union, feminism, or post modernism, these texts also disappoint.
Examination of Lenin and the democratic socialist alternative to Soviet marxism should be included in any text published at the close of the twentieth century. In fact, none of the books address twentieth century issues very well.

I now examine each text on its own merits. Losco and Williams' *Political Theory: Classic Writings, Contemporary Views* is the most interesting and perhaps the most sophisticated of all the editions. It presents excerpts from Plato through Arendt, Rawls, and Habermas, while also providing for each thinker excerpts from two contemporary and contrasting interpretations on that thinker, often from the journal literature. Thus, to select Marx as an example, excerpts from the "Economic and Philosophical Manuscripts," the "German Ideology," and *Capital* are followed by abbreviated essays by Bertell Ollman and William James Booth that offer interesting analyses of Marx.

The editors seek to move away from a simple set of historical readings and introduce contemporary writings that would bring to life the issue of how or why these theorists have something of import to say to politics, especially contemporary politics. The book also offers an introductory exposition that defines the nature of political theory and its role in society. Following a discussion of Leo Strauss' and Sheldon Wolin's views on political theory, the editors note that in selecting their readings they wished to "take a problem-solving orientation" to political theory because "We regard political theory as an effort to understand the meaning and significance of political life" (p. 3). Hence the excerpts and readings are designed to help students see them in light of particular problems a thinker sought to resolve.

Another area in which this book is strong compared to its rivals is in addressing later marxists such as Habermas. And this volume takes note of the omission of female political theorists in the history of political thought, but the editors indicate that the writers they have included are the ones which "contemporary theorists of both sexes turn when certain questions (of politics) are asked" (p. 5).

They do a better job with the inclusion of several contemporary theorists who address gender or family issues, e.g. Mary Shanley on John Stuart Mill and marriage, and Susan Moller Okin on Aristotle and women. However, many excerpts that might have addressed gender and family issues have been omitted from the selections. Thus, to note an example, Locke's chapter on the family in the *Second Treatise* is ignored, and excerpts from Rousseau's *Emile* that compare the education of men and women are not
Morgan's edited *Classics of Moral and Political Theory* is a compilation of many of Hackett Publishing's paperback editions of the great thinkers. Morgan tells us that his concern is to offer a collection of classic texts, a classic text being defined as "a work that makes an important difference or at least, from a particular vantage point, is thought to have made and to continue to make a difference" (p. vii). Moreover, he acknowledges that the authors of his classics are white, male, and western but he claims that his selection results in a set of readings that have defined western culture.

This volume contains fifteen theorists from Plato to Nietzsche (no effort to address the twentieth century is made). There is a brief historical introduction to each thinker, and the text that follows is either the complete text of a particular work or the most important or most frequently used section of it. Hence, this volume contains the entire "Crito," "Apology," and *Republic* by Plato, Locke's entire *Second Treatise*, all of Machiavelli's *The Prince*, Rousseau's complete *Social Contract* and *Second Discourse*, all of Mill's *On Liberty* and *Utilitarianism*, the full text of Kant's *Metaphysic of Morals*, and the full text of several of Marx's shorter essays. There is also solid editing of Aristotle's *Politics* and *Ethics*, Hobbes' *Leviathan*, and Machiavelli's *Discourses*, among other works.

Overall, Morgan has done an excellent job in providing an inexpensive one volume edition of the major writings most of us use in our basic history of political thought classes. This book could easily replace the need for students to purchase single texts and Morgan's volume could be supplemented with other primary works or secondary commentary, as appropriate. This book is suitable for all levels of political theory courses but is especially well adapted to traditional great books courses.

*Great Political Thinkers: Plato to the Present* is the fifth edition of Ebenstein's forty-year-old classic that is now edited by his son. This book is perhaps the most exhaustive attempt to provide excerpts of the great thinkers in western political thought. The book "present(s) the major turning points of political thought from Plato to the present" (p. viii) and contends that while commentary and critical analysis is good, reading the original works is more important. Hence, the focus on including as much original text as possible.
Ebenstein sees western political thought as developing out of Greek rationalism, Jewish monotheism, and Christian love. The interrelationship among these three values form the core of western political theory and they also structure Ebenstein's presentation of his thinkers. The book has 34 chapters that run from Plato to Marx, covering thinkers ignored in most other books, including Dante, Marsilio of Padua, Bodin, Montesquieu, Kant, Smith, Freud, Gandhi, Hayek, and Rawls. Unlike the Morgan edition, where the full text is usually provided, Ebenstein places more emphasis on wide coverage through excerpts rather than giving us the entire text of a work. Lenin is also covered but not other Marxists. Fascism and the debate among economic and social liberals (e.g., Keynes) in the 20th century is well presented.

This is not an introductory volume; it is a complete text for a standard history of political thought course aimed at a middle-to-advanced-level political theory class. The book could be used in lieu of original texts purchased separately, and the breadth of coverage of this book is so great that it is clearly suitable to a one year lecture course, if one wished to cover the entire text. Alternatively, one could create a one-semester course by selecting a limited number of thinkers.

Introduction to Political Thinkers is an abridgement of Great Political Thinkers and it covers 11 philosophers from Plato to Rawls. The same text and commentary on these thinkers found in the larger volume is present in the smaller text. Absent is the statement of the organizing values of western political thought that is found in the larger text. This book is comparable to the scope found in Nelson and Wiser, and perhaps could compliment these books in a course.

Wiser's Political Philosophy: A History of the Search for Order is commentary and description on 16 great thinkers in the west from Plato to Marx, plus a chapter on twentieth century political thought. The book is organized to draw a contrast between the ancient writers of classical Greece and Christianity and the moderns. In Wiser's words, "modern western political philosophy may be seen as the product of a sustained effort to free itself from what is perceived to be the restraints and limitations of its own past. In part, therefore, Western modernity is based upon a negation of Western antiquity" (p. x.) Wiser says that the organizing premise of this book is to show that modernity and modern political thought takes place within a "particular spiritual and cultural context" and that modern political thought and contemporary politics can be best understood by its reaction to the ancients.
There are five parts to the book. The classical tradition includes brief text and commentary on Plato, Aristotle, and the Romans (especially Polybius and stoicism). Part II, the Christian tradition, includes St. Augustine and Thomas Aquinas. Part III is on the Birth of Modernity and the search for a new order as Christianity is questioned. Here, Machiavelli, Calvin, Bacon, and Descartes are discussed. Part IV includes chapters on Hobbes, Locke, Rousseau, Burke, and Marx, as well as those on the French Enlightenment, the Utilitarians, and pre-marxist socialists. A final chapter on the twentieth century is entitled "Modernity Questioned."

The commentary offers a fairly traditional interpretation of the Ancients versus the Moderns. But conspicuously missing are extended discussions of Socrates as well as a solid treatment of Lenin or the Marxist tradition in the twentieth century. Also missing are discussions of recent movements, including post-modernism and feminism. The book is better on the "core" or mainstream liberal tradition and weaker on dissident voices. It could be used in a first year class. Unfortunately, little effort is made to reach out to students with questions or efforts to stimulate thinking. Thus, those reading this book may find it hard to relate to many of the issues raised in the readings.

Nelson's *Western Political Thought: From Socrates to the Age of Ideology* is geared to an introductory or first year college level political theory class. The organizing theme of the book is directed at the "changing relationship of ethics to politics in political thought from Socrates to the present time" (p. xiii). Nelson believes that all political theories raise certain perennial issues and one of them is the ethics/politics relationship. More importantly, Nelson sees special key periods in which the relationship between the two is significantly changed, and this provides for "key historical junctures" in western political thought. These key junctures are Ancient-Medieval, Modern, and Contemporary Political Theory and these three periods determine the organization of the book.

The book contains commentary as well as quotations from major thinkers. Socrates, Plato, Aristotle, Augustine, and Aquinas are covered in the first section. Machiavelli, Hobbes, Locke, and Rousseau are the moderns. Part III labels contemporary political theory as everything from the French Revolution to the present, including: Conservatism, Classical Liberalism, Modern Liberalism (De Tocqueville, John Stuart Mill, and T.H. Green), Marxism (really Marx, because there is almost nothing on Lenin or the Marxist tradition), and a weak concluding chapter that is supposed to be on the age of ideology but which is really a hodge-podge of
Commonwealth

comments on the history of political thought. Nelson stops with World War I and thus there is no serious effort to discuss the twentieth century, including contemporary Marxism, or any of the issues that would engage students about the world that has evolved to the present.

Organizationally, there are no subheadings dividing the chapters and thus they seem long and overwhelming to students who will ultimately find this style difficult to comprehend and follow. As far as the content of each chapter goes, the treatment of each thinker addresses the philosopher and his times, the definition of his political terms, and the nature of the political society he advocated. The textual discussion does a competent job in addressing the changing politics/ethics issue, yet this presentation is somewhat weak in the final five chapters on contemporary political theory, where too much is covered too quickly and in too little detail.

Sheldon's The History of Political Theory: Ancient Greece to Modern America is a short readable book that contains commentary and copious text, covering thinkers from Socrates to Rawls and Benjamin Barber. The stated organization of the book is designed to compare the different thinkers in terms of their views of human nature, the nature of political society, and social ethics, and then relate the thinkers on these three points to the American political tradition. The book has a useful format to organize the discussion of each political thinker and this makes it possible to compare different thinkers in the west on these three points.

The strength of Sheldon's book is the inclusion of writers not addressed in the other commentary books, e.g., Lenin, Freud, Gentile, Rawls, and Robert Nozick, and this gives it a nice twist when compared to the others. The weakness is in its traditional scope for those looking to include discussion of issues beyond views of human nature, ethics, or political organization. For example, the historical context and treatment of the thinkers is not as well developed as it could be. Also, by organizing the comparison of the thinkers around three basic themes there may be too much of a temptation to assume all thinkers are seeking to structure their theories around these three themes or in response to earlier great thinkers. In fact, many of these theorists were more concerned with the issues in their time and they were not addressing issues raised by great theorists from the past. This book is clearly geared to first year students.

To conclude, for those who reject the option of purchasing several separate texts of the great thinkers, the works reviewed above offer those teaching standard Plato to Nato political theory classes many choices, and
most who teach these classes should find at least one serviceable course text in the lot.
What's in a name?

1: political organization: civil order... 2a: a specific form of political organization: a form of government...

b: an Aristotelian form of political organization in which the whole body of the people govern for the good of all and that constitutes a fusion of oligarchy and democracy 3: the management of public and private affairs; esp. prudent, shrewd, or crafty administration... 4: a politically organized unit (as a nation, state, or community)... 5: the form or constitution of a politically organized unit (as a nation or state)... b: the form of government or organization of a religious denomination...

6: THE JOURNAL OF THE NORTHEASTERN POLITICAL SCIENCE ASSOCIATION

Subscription Rates

Individuals: $20.00 (including membership in the Northeastern Political Science Association)
Foreign: $22.00
Institutions: $35.00, Foreign: $36.00
Student: U.S.A. $7.00, Foreign: $10.00

Mail (subscription orders) to: POLITY, Thompson Hall, University of Massachusetts, Amherst, Massachusetts 01003

Name

Address

Payment enclosed, sum of: ___________________________
JOURNAL OF
THIRD WORLD STUDIES

A Provocative and Scholarly Bi-Annual Periodical on Third World Developments...

FORTHCOMING ISSUES

Fall, 1992 — "United States — Third World Relations in the Post-Cold War Era."
Spring, 1993 — "The Third World in the Post-Cold War Era: Problems and Possible Solutions."
Fall, 1993 — "Third World Problems and Issues."
Fall, 1994 — "Third World Crises."

PAST CONTRIBUTORS HAVE INCLUDED:

Sheikh R. Ali
S.K.B. Asante
A.B. Assensoh
Michael B. Bishku
Morris J. Blachman
Kong Chu
Robert O. Collins
Martin J. Collo
R. Hunt Davis, Jr.
Nader Entessar
Mahmud A. Faksh
Paul N. Goldstene
Zia H. Hashmi
William Head
Harold Isaacs
Thomas M. Leonard
Steven L. Levine
Leo Y. Liu

Paul J. Magnarella
John Mbaku
David J. McCleery
Mary C. Muller
Thomas P. Olsansky
Louis A. Perez, Jr.
Kent M. Sole
Earl H. Tiford, Jr.
G. Lane Van Tassel

YES. Please enter my one-year subscription to Journal of Third World Studies (JTWS).

Name __________________________________________
Address _________________________________________
City/State/Zip Code ________________________________

Enclosed is my check for $45. (Make checks payable to "Association of Third World Studies, Inc."

Detach and send to: Association of Third World Studies, Inc.
P. O. Box 1232, Americus, Georgia 31709
Perspectives on Political Science

Each issue of Perspectives on Political Science contains close to 80 reviews of new books in the ever-changing fields of government politics, international affairs, and political thought. These books are reviewed by outstanding specialists one to twelve months after publication. Also included are major articles covering innovations or rethinking traditions in teaching techniques. Occasional symposia issues address the state of the art in political science and public policy.

EXECUTIVE EDITOR
Jerome J. Hanus, School of Government, American University, Washington, DC

ORDER FORM
☐ YES! I would like to order a one year subscription to Perspectives on Political Science, published quarterly. I understand payment can be made to Heldref Publications or charged to my VISA/MasterCard (circle one).
☐ $39.00 individuals ☐ $78.00 institutions

ACCOUNT # ___________________________ EXP. DATE ___________________________
SIGNATURE ____________________________________________

NAME ____________________________________________________
ADDRESS __________________________________________________
CITY/STATE/ZIP ____________________________________________
Add $10.00 for postage outside the U.S. Allow six weeks for delivery of first issue.

SEND ORDER FORM AND PAYMENT TO:
Heldref Publications
1319 Eighteenth Street, NW
Washington, DC 20036-1802
(202) 296-6267 FAX (202) 296-5149 1 (800) 365-9753
GUIDELINES TO COMMONWEALTH STYLE

Please follow these guidelines. The Editor reserves the right to request revisions in all drafts submitted.

Text, NOTES and REFERENCES should be double spaced and on a letter-quality printer.

For each revision and the final draft, send 2 copies. One copy of your paper on disk (in ASCII form) is to be submitted when requested by the Editor. COMMONWEALTH generally follows the style used in the American Political Science Review, but note the following:

Any tables and figures: The final version of the paper should include these, cleanly typed and suitable for photographing as artwork. They must be camera-ready: reducing to COMMONWEALTH page size (6 1/4" x 4 1/2") is the responsibility of the author.

A complete list of reference sources should be placed at the end of the paper as REFERENCES. Be sure every cited work (and none that are not cited) is included, and that all entries are complete and accurate. Use first names rather than initials where possible. If you revise your paper and add or delete citations, crosscheck again. Use old APSR style for article titles: omit quotation marks.

Citations, whenever possible, should include one or more relevant page or chapter numbers. Groups of page numbers should be written as 411-412, not 411-2 or 411-12. Cites following a direct quote should be placed outside the quote marks.

For institutional or anonymous authorship, supply minimum identification (name of sponsoring body or publication title) keyed to the REFERENCE. For example:


For all other matters of style, consult, first, American Political Science Association Committee on Publications, Style Manual for Political Science, and the dictionaries listed therein; then A Manual of Style, 13th ed., University of Chicago Press. Please contact the Editor of COMMONWEALTH with any questions.
Guidelines for Submission to
COMMONWEALTH: A Journal of Political Science

COMMONWEALTH is a general journal which annually publishes original research from among the many subfields and perspectives in the discipline as well as those of an interdisciplinary nature. Open to a variety of approaches and methodologies, it seeks studies which are based on theoretical perspectives (empirical and/or normative) as well as those which advance knowledge by using historical approaches. We particularly encourage scholars studying Pennsylvania Politics and government to submit articles for consideration by our referees.

Some specific guidelines for manuscripts are as follows: The preferred length is 15 to 30 typewritten pages, including notes, references, tables, and any other appended material. All material should be double spaced. Tables and figures should be placed on separate, consecutively-numbered pages following the text, with an indication in the text of their approximate placement; these precede any content notes, which are then followed by the list of references. Four copies should be submitted, and to facilitate blind refereeing, the author's name and affiliation should be on a separate cover page. The citation style used is the American Political Science Association's Style Manual for Political Science, with a few exceptions which are noted on our Style Sheet published on the preceding page.

Persons wishing to submit manuscripts for consideration should send them to:

Thomas Baldino, Editor
Department of Political Science
School of Business, Society and Public Policy
Wilkes University
Wilkes-Barre, PA 18766
Guidelines for Review Essays

Review essays should not be undertaken for COMMONWEALTH until a proposal has been accepted by the Editor. Thus, the first step is to contact the Editor with a proposal to review a number of major texts in any definable subfield or special area of political science that are currently in print. The proposal should include a complete, fully cited list of all books proposed for the review. The Editor may consult specialists in the subfield before making a determination on any proposal. If the determination is to commission a review, together with a letter requesting that the reviewer go ahead, the Editor will send each reviewer a set of directions for completing the review.