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While the U.S. Constitution offers a solid framework for conducting this election every four years, much of it is "unscripted."

This fall has been filled with the political "horse race" we, in the United States, invoke to elect our next president, our commander in chief ... our country's leader. We have watched the party conventions, seen or heard the pundits—professional and otherwise—opine on the candidates. Polls predict winners one day, losers the next, and dead heats throughout the year. And we went to the polls. While the U.S. Constitution offers a solid framework for conducting this election every four years, much of it is "unscripted." The text of the U.S. Constitution says nothing about campaigns or political parties, yet both are center stage during the race and beyond. This issue of Insights explores the interaction of politics, media, and candidates in our electoral process.

Political scientist professor Dewey Clayton opens the issue with a look at the constitutional requirements for the presidency. He raises provocative questions about the Electoral College sure to fire discussion in the days following the popular election. Professor Richard Hardy explores political parties—they are absent from the Constitution, but dominant forces in our local, state, and national governments. Both articles project a historical lens on our very contemporary processes. The Atlantic correspondent Nancy Scola highlights how technology is revolutionizing political campaigns through the use of social media, while in our "Perspectives" department, experts discuss how Super PACs are, and are not, reshaping the electoral process. Finally, Mark Cohen commemorates a special birthday of the relatively obscure, but very important, amendment to the U.S. Constitution, the 17th providing a window into the continuing importance of “down ballot” races.

Most importantly, with this issue of Insights, we have a new look and feel. Many of the features that you have come to expect from Insights are still there, but in a fresh and, we hope, more user-friendly presentation. In feature articles, please watch for special icons highlighting the “Learning Gateways” teaching activities, as well as “Suggested Resources” sidebars. Check out our new features, including “Teaching Legal Docs,” where we offer practical advice for understanding legal documents and using them in your classroom. We also added a special “Profile” page, where we will spotlight a teacher, student, expert, or other innovator. As always, do not miss the preview of the rich roundup of resources online at www.insightsmagazine.org, which offers teachers additional instructional supports, including articles, lessons, and primary sources, and opportunities for continued discussion.

Let us know what you think and how you incorporated this issue into your classroom. And let us know if there are topics or “Profiles” that you would like to see us tackle in these pages.

Best wishes for a successful school year,

Mabel McKinney-Browning
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The presidency was established by Article II of the U.S. Constitution when the framers of the Constitution met at the Constitutional Convention in the spring and summer of 1787 in Philadelphia, Pennsylvania. They agreed that a strong executive would be needed to balance the powers of the legislature; however, differences arose over the structure of the institution, the powers vested in the institution, and the selection process of the President. After some debate, the delegates decided on a single executive. The framers wanted a strong executive but not so strong as to threaten the other institutions of the national government. They initially sought to limit the executive powers to making sure that the laws were faithfully executed and to appointing officials.

Constitutional Framework

The U.S. Constitution, Article II, places only three requirements on those seeking to hold the highest office in the land. First, the President must be a “natural-born citizen.” That includes anyone born on United States territory. Scholars have debated whether a child born abroad of an American parent is considered a “natural-born citizen.” Congress has adopted the rule of jus sanguinis (law of the blood) to apply in special circumstances. Under the rule, one may be a citizen of the United States if born abroad, provided that either or both of one’s parents are citizens. Persons born in foreign countries who later become citizens by naturalization are not eligible to be President. President Barack Obama found himself at the center of controversy during the 2008 presidential election and throughout his first term by a group of Americans who have insisted that he was not a “natural-born citizen” and thus does not meet the requirements to be President. Known as the birther movement, some of these conspiracy theories hold that Obama was not born in Hawaii but in Kenya, the birthplace of his father, and that therefore he is not eligible to

By Dewey Clayton
be President of the United States. The controversy persisted so much so that in April 2011, the White House released a certified copy of President Obama’s Certificate of Live Birth (the long-form birth certificate).

Second, the President must be at least 35 years old. The youngest President ever elected was John F. Kennedy, at age 43. The youngest President to serve, however, was Theodore Roosevelt, who took office at age 42 upon the death of William McKinley. Third, the President must have lived in the United States for at least fourteen years. The fourteen years do not have to be consecutive. Herbert Hoover and Dwight Eisenhower had lived outside of the United States for several years before their election as President.

The Electoral College

Determining how the executive would be chosen was a difficult task. The framers considered several methods: election by the people, election by Congress, and election by a group of electors. Direct election by the people was rejected because the framers believed that the masses of people would not make informed, intelligent decisions because of the size of the country and lack of communication and information. Election by Congress was rejected because that would compromise the concept of an independent executive. Ultimately, the framers reached a compromise on selection of the president called the Electoral College (the Constitution does not use this term) which allows for indirect popular voting. According to the original plan (Article II, Section 1), each state was allotted a number of electors equal to its number of U.S. Senators (2), plus its number of U.S. Representatives (which may change each decade according to the size of each state’s population as determined in the decennial census). This design gave the larger populated states the larger share of electoral votes, and it gave the smaller populated states a two-seat bonus based on their senators. Each state is allowed to choose its slate of electors as determined by the state legislatures. No elector may be a member of Congress or hold any other federal office.

The Twelfth Amendment

The Electoral College of today differs somewhat from the original plan created. The first of these changes resulting from the Twelfth Amendment, adopted in 1804, was designed to clear up the confusion that arose in the election of 1800. Originally, the Electoral College was set up so that each elector would vote for two candidates. The candidate receiving the greatest number of electoral votes, provided it was a majority, would become President: the runner-up would become Vice President. If no candidate received an absolute majority or if there were a tie, then the U.S. House of Representatives would choose the President. Each state would cast one vote. This arrangement worked well for the first two elections won by George Washington with unanimous votes in the Electoral College. However, by the end of Washington’s second term, the first two political parties had been established: the Federalists and the Democratic-Republicans. For the election of 1796 John Adams, a Federalist, was chosen as President and Thomas Jefferson, a Democratic-Republican, was elected as Vice President. No one had anticipated that the President and Vice President could be chosen from different political parties.

An even more unusual situation would arise with the election of 1800. Because each elector cast two votes for his party’s two candidates, Democratic-Republican presidential candidate Thomas Jefferson and his vice presidential candidate Aaron Burr, tied with the largest number of votes, 73. Because of the tie, the election would be decided by the U.S. House of Representatives. After numerous ballots Jefferson was finally elected President and Burr was elected Vice President. The framers had not anticipated the new political party

They [framers of the Constitution] agreed that a strong executive would be needed to balance the powers of the legislature; however, differences arose over the structure of the institution, the powers vested in the institution, and the selection process of the President.

President Barack Obama released his birth certificate (above) in response to questions about his place of birth (below). Images courtesy of the White House and Wikimedia Commons respectively.

Dewey Clayton is a professor of political science at the University of Louisville. He is the author of two books, The Presidential Campaign of Barack Obama, (2010), and African Americans and the Politics of Congressional Redistricting (2000). His research interests include presidential politics, and race, law, and politics.
Abolish the Electoral College?

Critics of the Electoral College system suggest that it is anachronistic, left from a time when people were not able to learn about all of the candidates. This simply is not a problem in our wired world. Critics suggest that the system makes the national popular vote irrelevant, even disenfranchising individual voters as their votes are not actually representative of one vote per person for president and vice president, but votes for electors.

The winner-take-all system of awarding electoral votes is also criticized for allowing candidates to focus on states with large numbers of electoral votes, or “swing” states whose electoral votes may not be cast for a clear favorite. Other critics suggest the Electoral College system is unnecessarily complex and contributes to low voter turnout or voter apathy.

In our nation’s history, there have been over 700 proposals in Congress to reform or abolish the Electoral College, more than any other subject of constitutional reform. Only two—the 12th and 23rd Amendments—ever reached a stage for ratification.

>>> Reasons to keep things as they are

Supporters of the Electoral College argue that the system prevents a candidate from winning the presidency by simply winning popular votes in large urban areas, and maintains the federal character of our polity, a system of shared federal and state powers. In order to win, candidates must expand their campaigns to include smaller states and rural areas.

The Electoral College also allows for states to conduct elections using methods it chooses without affecting other states. Likewise, it also isolates the impact of problems such as election fraud and ballot recounts. Supporters argue that a direct popular vote for president would result in comprehensive federal voting statutes that would take power away from the states.

Supporters also suggest that the Electoral College model neutralizes voter turnout disparities among states. Things such as weather, high-profile campaigns, initiatives, and constitutional amendments at the state level affect voter turnout. Because the allocation of electoral votes is independent of each state’s voter turnout, the Electoral College helps to neutralize disparities between states.

>>> Proposals for reform

One of the most prominent proposals to reform the Electoral College is the National Popular Vote Interstate Compact, in which individual states agree to allocate their electoral votes to the winner of the national popular vote. State legislatures of the joining states would organize direct elections, effectively circumventing the Electoral College. Eight states—California, Hawaii, Illinois, Maryland, Massachusetts, New Jersey, Vermont, Washington—and the District of Columbia have joined the compact. Together they possess 132 electoral votes, or 49 percent of the 270 needed to effectively implement the compact.

The total number of Electoral College votes today is fixed at 538. This number is based on 435 representatives in the U.S. House of Representatives and 100 U.S. Senators, plus three votes for the District of Columbia (Twenty-third Amendment). To become President, one needs 270 electoral votes (a simple majority of 50 percent plus one).

Today, presidential elections are held every year divisible by four on the Tuesday after the first Monday in November. This is the day for actually selecting electors and not voting for the President. Many Americans are unaware of this step. In most of the states, the electors’ names do not even appear on the ballot. In those states, a vote for a presidential candidate is assumed to be a vote for the corresponding electors.

The original plan of the framers was to have each state choose its electors in the manner it deemed appropriate (state legislatures selected the electors in most states). The electors would meet as the Electoral College and exercise their own judgment in selecting the President and Vice President. Today, electors are not directly chosen by state legislatures. They are chosen by the electorate of each state and, since 1800, political parties have chosen them. Each of the major political parties will select a separate set of electors. As a result, presidential electors are not truly independent; they cast their votes for the candidate of their party.

Once the voters have cast their ballots, it is up to each state to determine how that electoral vote will be distributed. In all but two states (Maine and Nebraska), the presidential candidate who wins the popular vote wins all of the state’s Electoral College votes. In Maine and Nebraska, the electoral votes are divided proportionately to the popular vote. One elector would be chosen from each congressional district in that state based on the presidential candidate with a plurality of the popular vote (more votes than any other candidate) in that district. Two more electors are chosen at-large from the entire state. Their votes go to the candidate with a plurality of votes statewide.

Technically, the popular vote does not count and the President is not elected until the first Monday following the second Wednesday in December. After...
the electors sign and cast their electoral ballots in their respective state capitals, the ballots are sent to Washington, D.C., where on January 6, of the following year, the ballots are unsealed, counted and certified by the President of the Senate before a joint session of Congress. The electors pledge themselves to vote for their party's candidates for President and Vice President, although the Constitution allows them to use discretion (only rarely have electors broken this pledge). The candidates who receive a majority of the Electoral College votes are certified as President-elect and Vice President-elect. If no candidate wins a majority in the Electoral College, the House of Representatives chooses the President, voting by state delegations with one vote to a state; the Vice President is decided by the Senate from between the two highest candidates, with each Senator having one vote.

Flaws in the Electoral College

It is possible for a candidate with the most votes in the Electoral College to lose the presidency in the House. This happened to Andrew Jackson in 1824. The election was unusual because the Federalist Party had dissolved and the country was left with only one national political party (Democrat-Republicans). Jackson led in both popular and electoral votes in a four-way race but did not have a majority of Electoral College votes. Thus, it was left to the House of Representatives to decide among the top three candidates who the President would be. This process eliminated Henry Clay, the Speaker of the House, who had come in fourth. Clay gave his support to John Quincy Adams, who won the election in the House of Representatives even though he had received roughly 45,000 fewer popular votes than Jackson.

The Electoral College has on three occasions failed to elect a President and Vice President. In addition to the elections of 1800 and 1824, (discussed previously), this also occurred in the highly controversial election of 1876, which pitted Democrat Samuel Tilden against Republican Rutherford B. Hayes. Tilden won the popular vote by 250,000 votes nationwide and won 184 Electoral College votes to 165 for Hayes. Twenty electoral votes in three southern states were in dispute (South Carolina, Florida, and Louisiana). After recounts in all three states were unsuccessful, Congress created a commission to resolve the dispute. It consisted of eight Republicans and seven Democrats (five selected from the House of Representatives, five from the Senate, and five from the Supreme Court). The commission voted along party lines giving all 20 disputed votes and the presidency to Rutherford B. Hayes by a 185 to 184 margin.

One criticism of the Electoral College is that it is possible for a candidate to win a majority in the Electoral College and not win a majority or even a plurality of the total popular vote. This situation has occurred three times: in 1876, 1888, and 2000. The election of 1876 (see above) was full of illegal voting and ballot fraud and though Rutherford B. Hayes received 250,000 fewer popular votes than Samuel Tilden, he was still elected President. In 1888, the winner of the popular vote lost in the Electoral College. Democrat Grover Cleveland received 90,596 more popular votes than Republican Benjamin.
Harrison. Nonetheless, Cleveland had garnered only 168 electoral votes as opposed to Harrison's 233, thus, Harrison was elected President. This situation has only occurred once in modern times: the presidential election of 2000 between George W. Bush and Al Gore. Gore won 600,000 more popular votes than Bush nationwide and led Bush in the electoral vote total by 267 to 246. Neither candidate had the 270 majority needed. However, Florida had 25 electoral votes that were hotly disputed due to widespread voting irregularities. After 37 days of numerous recounts and legal maneuvering, in Bush v. Gore (2000), the Supreme Court decided that Florida's 25 electoral votes would go to Bush, effectively awarding him the presidency.

Electoral College Reform

The Electoral College is part of the original design of the Constitution. On the one hand, it benefits larger states because they have more Electoral College votes, which often cause the presidential candidates to spend more time and resources in those states. On the other, the Electoral College benefits smaller states, because these states gain more influence in the Electoral College than they would otherwise have by virtue of the two votes given to every state. The Electoral College has come under criticism because candidates who have received a minority of the popular vote have won elections; electors no longer perform the selecting function that was the original design of the framers; the rule that mandates all of a state's Electoral College votes go to that party that receives a statewide plurality (winner-take-all) of the popular vote is unfair to other candidates who are on the ballot in a state. Small states, in particular, fear that if the country moved to the direct election of the President nationwide, they would be overwhelmed by the larger urban vote. The two major political parties have concerns that a change would allow minor parties a much larger role and possibly prevent

Learning Gateways

ELECTING A PRESIDENT

Visit www.insightsmagazine.org for links to materials listed here, including a downloadable copy of the cartoon for use in the classroom.

1. What do you see in the cartoon?
2. What does the layout of the maze convey about our electoral process?
3. What do you think this cartoon suggests?
4. Do you agree with the point that the cartoonist is making? Why or why not? If not, how might you revise the cartoon to reflect your perspective?

Additional Activities

1. Stage a debate around the constitutional requirements for the presidency—natural-born citizen, age 35, and 14 years residency. Are these requirements adequate? If not, what requirements do students propose? Consider using the National Constitution Center’s “Town Hall Wall” asking “Should we amend the Constitution to let foreign-born U.S. citizens become president?” to inspire a conversation.

2. Assemble a constitutional convention to discuss reforming the Electoral College. Note that C-SPAN offers free electoral vote maps to classrooms, along with lesson plans, on their website.

3. Students might research current Electoral College reform proposals in Congress. If your state’s senators or representatives have sponsored or supported a proposal, consider inviting that person to your classroom.

4. Find your state’s Certificates of Vote from the 2008 election online from the National Archives. Ask students to analyze the documents, and discuss what role they play in the electoral process. The National Archives also offers a document analysis worksheet.

5. Determine when and where your state’s electors are meeting to certify their votes following the 2012 election. Find out if the proceedings are open to the public or televised. Consider inviting an elector to your classroom to discuss the voting process with students.

6. Ask students to research whether or not your state is part of, or debating participation in, the National Popular Vote Interstate Compact. If your state legislature is debating participation, students might write letters to representatives sharing their thoughts on the issue.
any one candidate from receiving a majority of electoral votes.

This nation is vastly different today from the one that existed when the Electoral College was created in 1787. In some respects, our system of electing the President is anachronistic because the majority of Americans now have access to information and communication to make an informed decision. Some have called for reforms such as direct election of the President, but the Congress has rejected several constitutional amendment proposals to eliminate or substantially change the Electoral College.

9 Parts of this article were adapted from “The Electoral College: An Idea Whose Time Has Come and Gone,” The Black Scholar, Volume 37, No. 3, Fall 2007, pp. 28-42.
How to Read a U.S. Supreme Court Opinion

Reading a U.S. Supreme Court opinion can be intimidating. The average opinion includes 4,751 words, and is one of approximately 75 issued each year. It might be reassuring, however, to know that opinions contain similar parts and tend to follow a similar format. There are also useful things to identify amid the pages to help focus reading. Here is a basic guide for reading a U.S. Supreme Court opinion.

1. Identify the parts
Typically, a U.S. Supreme Court opinion is comprised of one or more, or all, of the following parts:

- **Syllabus**
The syllabus appears first, before the main opinion. It is not part of the official opinion, but rather, a summary added by the Court to help the reader better understand the case and the decision. The syllabus outlines the facts of the case and the path that the case has taken to get to the Supreme Court. The last portion of the syllabus sometimes summarizes which justice authored the main opinion, which justices joined in the main opinion, and which justices might have issued concurring or dissenting opinions.

- **Main Opinion**
Following the syllabus is the main opinion. This is the Court’s official decision in the case. In legal terms, the opinion announces a decision and provides an explanation for the decision by articulating the legal rationale that the justices relied upon to reach the decision. The main opinion may take different forms, depending on how the justices decide certain issues.

2. Understand the formal elements
Regardless of which, or how many, parts comprise the opinion, they will share several formal elements. Headings typically include the Court term in which the opinion was announced, case docket number, argument dates, and decision date. Another important element is the case name, which helps determine the parties involved in the case (see sidebar). Finally, there might be an explanation of where the case came from before reaching the Court. Often, there is a note about certiorari, an order by which a higher court reviews the decision of a lower court. For example, an opinion may reference “Certiorari for the United States Court of Appeals for the Ninth Circuit.” That means the Court reviewed the case from the lower court, the U.S. Court of Appeals of the Ninth Circuit.

3. Read purposefully
When reading an opinion, it is important to focus on a few “big picture” takeaways:

- **Facts**
Pinpoint the facts of the case, or the “story”—who, what, when, and where. Supreme Court cases tend to begin with a person, place, thing, or event, often in everyday scenarios. The goal is to be able to tell the story of the case, including its procedural history.

- **Legal Dispute(s)**
What are the legal issues in the case? What questions are being presented? Is the Court interpreting the Constitution or a statute—e.g., an act of Congress? Try to identify the parties’ particular dispute(s) and their main arguments.
Disposition
Generally, the end of the main opinion includes the disposition, or what action the Court is taking. When reviewing decisions from a lower court, the Supreme Court basically has three options:
- **Affirm**—allow the lower court’s ruling to stand;
- **Reverse, Void, or Vacate**—overturn the lower court’s ruling; or
- **Remand**—send the case back to a lower court for a retrial.

Sometimes the Court combines the last two of these options—reverse and remand—and not only overturns the lower court's decision, but also orders a retrial.

Law
The main opinion will include a section on law, which includes the Court’s legal reasoning or holding. In some opinions, this will be clearer than others, but try to identify at least one principle of law that the Court outlines as a basis for its ruling. Sometimes, the opinion cites past cases—legal precedent, policy, or outlines other considerations. Finally, were there any concurring or dissenting opinions? If so, try to determine the differences in reasoning.

Significance and Scope
Consider the significance of the opinion. This may not be readily apparent simply from reading the text of the opinion. What do you think will be its application beyond the particular facts of the case? Consider other possible fact patterns to which it might apply. What else do you think will be the consequence of the opinion, especially considering its holding or legal reasoning? What precedent might it establish?

What Does That Case Citation Mean?
Each of the pieces of the case citation mean something, as illustrated below:

*Gideon v. Wainwright* 372 U.S. 375 (1963)

1. **Case name**
2. **Volume of the report series in which the full decision is officially documented**
3. **Name of the report series in which the decision is documented: “U.S.” stands for the *U.S. Report*, which is printed by the Supreme Court. Sometimes a case name refers to an independently published series, such as “S. Ct.,” which refers to the *Supreme Court Reporter* published by West Publishing.**
4. **Page number in the referenced volume on which the decision begins**
5. **Year the opinion was released**

A Note on Case Names
Cases are named according to the parties involved. When there are two parties, the first name is the petitioner, or the party filing the lawsuit against the second party, the respondent.

Sometimes case names do not list two parties, such as cases whose names include *In re* or *Ex parte*. *In re* is a Latin term meaning “in the matter of” and is typically used in cases where there are not two designated adversarial parties. Such cases might involve property disputes, court orders, or situations where the Court is asked to clarify matters, such as *In re Debs*. In this example, Debs was challenging an injunction, or court order, issued by the federal government during a labor strike. The term is also used in certain cases involving juveniles, such as *In re Gault*.

*Ex parte* is also a Latin term, which refers to a case “from one party.” Typically, one or more of the parties is absent from the legal proceedings. *Ex parte* is followed by the name of the party who initiated the case, as in *Ex parte Merryman*. One individual, Merryman, arrested during the Civil War, challenged the government’s right to hold him without charges. He sought an order that would require the government to charge him with something, or let him go.

Locating Supreme Court Opinions
- **U.S. Supreme Court**
  www.supremecourt.gov/opinions
  The Court posts opinions for the current term as well as PDF copies of bound volumes of opinions from previous terms.

- **Legal Information Institute**
  www.law.cornell.edu
  Comprehensive site from Cornell University Law School that offers opinions and notes “significant” cases from each term.

- **Oyez Project**
  www.oyez.org
  Managed by the Illinois Institute of Technology Chicago-Kent College of Law and offers opinions, audio of oral argument, and summary analysis of each opinion.

For more information about reading U.S. Supreme Court opinions, including a document map and explanations of key terms, please visit www.insightsmagazine.org.
It is impossible to comprehend the workings of the United States electoral process without a firm grasp of American political parties. Political parties are groups of people with shared interests or principles that are organized to nominate candidates for public office in order to win elections, control government, and set public policy. They are complex, multifaceted organizations with varying functions and ever-changing personnel, perspectives, and positions on public policies.

American political parties are replete with paradoxes. A paradox is any statement that appears self-contradictory, but expresses a possible truth. This article explores nine paradoxes relating to the origin, nature, functions, organization, leadership, legal status, and development of political parties in our constitutional system. Exploring these paradoxes may enable the reader to better understand the institutions that have proven vital, if not indispensable, to the development and sustenance of our American electoral process.

PARADOX ONE. Although political parties play a vital role in American government, there is no mention of them in the Constitution of the United States. Nowhere in the Constitution is there any reference to political parties. The reason is obvious: political parties did not exist when the Constitution was drafted in 1787. Although the concept of political party had been referenced by Edmund Burke, noted English lawmaker and philosopher, in 1770 and in the Federalist Papers during the ratification of the Constitution, the world’s first political parties, the Democratic-Republicans and the Federalists, did not appear until George Washington’s first term, when they were forged out of necessity. Thus, the U.S. Constitution provides no specific guidance for the regulation of political parties. The regulation of political parties has historically come under the regulation of state constitutions and state laws.

PARADOX TWO. The framers of the Constitution disliked political parties but depended upon them to forge our fledgling government.

The seeds of political parties were planted during the ratification of the U.S. Constitution, when proponents and opponents of the newly proposed document divided roughly into “federalists” and “anti-federalists,” respectively. It was not until George Washington’s first administration, however, that our nation’s first political parties formed—the Democratic-Republicans and the Federalists. Historians have chronicled critical events that led to the development of the first party system, but most consider the struggle over the creation of the Bank of the United States to be the central turning point.

Early in Washington’s first administration, the nation faced serious economic problems. Alexander Hamilton of New York, the first Secretary of Treasury, was convinced the nation needed a banking system even though the Constitution was silent on this topic. Hamilton believed the power was implied from the express powers in Article I, Section 8 that gave the Congress the power to do what is “necessary and proper to carry out the foregoing powers.”

Thomas Jefferson of Virginia, Washington’s first Secretary of State, however, strongly opposed the creation of a national banking system, insisting that without a specific constitutional mandate, banking regulation should remain the exclusive preserve of the state governments. The political rivalry...
between Hamilton and Jefferson soon accelerated. Jefferson forged a coalition to oppose the creation of a national bank and other policies advanced by Hamilton and his followers. Jefferson and his allies, including fellow Virginian James Madison, became known as the “Jefferson-Republicans” or “Democratic-Republicans” or “Republicans”—a term that should not be confused with the modern-day Republican Party. Hamilton and his followers, most notably John Adams of Massachusetts, became known as the Federalist Party.

President Washington eventually sided with Hamilton and signed the bill establishing the First Bank of the United States. Thus, political parties were essential to our Republic during its formative years. President Washington, while recognizing the need for legislative coalition building, refused to be drawn into the fray and warned against the evils of excessive partisanship. In his Farewell Address, President Washington warned, “However [political parties] may now and then answer popular ends, they are likely in the course of time and things, to become potent engines, by which cunning, ambitious, and unprincipled men will be enabled to subvert the power of the people and to usurp for themselves the reins of government, destroying afterwards the very engines which have lifted them to unjust dominion.”

Other prominent leaders echoed Washington’s words. John Adams, the first Federalist Party nominee to run for president, wrote, “There is nothing which I dread so much as a division of the republic into two great parties [emphasis added], each arranged under its leader, and concerting measures in opposition to each other. This, in my humble apprehension, is to be dreaded as the greatest political evil under our Constitution.” And Thomas Jefferson, Adams’s bitter rival and founder of the modern-day Democratic Party, chagrined: “If I could not go to heaven but with a (political) party [emphasis added], I would not go there at all.”

**PARADOX THREE.**

While political parties were neither planned nor revered by our founders, it is doubtful our Constitution could last without them.

The U.S. Constitution is now 225 years old. It is the oldest, continuing written nation-state constitution in the world. The major American political parties have promoted stability by building coalitions and serving as buffers to cushion the collision of extreme factions. The United States is obviously a nation of immigrants, comprised of complex multifaceted ethnic, racial, social, religious, economic, regional, ideological, and cultural interests. The major political parties, in order to win elections, forge coalitions among these diverse interests. And to forge coalitions, the parties develop platforms and foster legislative compromises among competing interests.

American political parties also help recruit government leaders and administrators. Modern governments depend on energetic, competent, and knowledgeable leaders. The political parties thus serve as informal personnel agencies by identifying and recruiting men and women to run for public office.

The major political parties help organize our legislatures. Think of the legislative logjam that might accrue if each of the 435 members of the U.S. House of Representatives or 100 U.S. Senators introduced dozens of bills, in their respective chambers, at the same time without leaders to prioritize the bills.

Moreover, political parties help develop public policies. In an effort to win elections, the political parties set forth platforms containing planks with stances on issues or specific proposals to remedy some societal problems. “Party platforms,” as Harry S. Truman once observed, “are contracts with the people.” They provide legislative blueprints for elected officials. Indeed, some of the most notable policy initiatives in American history derive from party platforms, including Theodore Roosevelt’s “Square Deal” (to regulate trusts, expand conservation, and protect consumers), John F. Kennedy’s “New Frontier” (to expand space exploration and educational opportunities), and Lyndon Johnson’s “Great Society” (to extend civil rights and fight poverty).
Finally, political parties foster civic engagement and help inform voters. In an effort to win elections, political parties identify supporters, organize at the grassroots level, mount voter registration drives, and get people to the polls on election day. In waging political campaigns, political parties expend money for television and radio advertising, develop podcasts, display billboards, make telephone calls, and generate flyers and handbills. Party leaders engage in public debates, appear on radio and television talk shows, and conduct town hall meetings. In the process, the parties send messages and make the voters more aware of current issues.

**PARADOX FOUR.**

Minor political parties rarely score electoral victories, but they play a vital role in American politics.

American history is replete with minor or third parties. Among them: the states’ rights Nullifier Party of 1828; Anti-Masonic (“Freemasons “secret society”) Party of 1832; anti-slavery Liberty Party of 1840; the pro-homestead and anti-slavery Free Soil Party of 1848; the Know-Nothing Party of 1848; the Equal Rights Party of 1872; the anti-monopoly, pro-paper currency Greenback Party of 1874; the Union Labor Party of the 1870s; the anti-elite, pro-agrarian, Populist Party in the 1890s; and the American Party of 1876. Each of these parties, in varying degrees, helped stir the cultural caldron and add spice to our political stew.

Yet, rarely has a third party come close to winning a national election. The best electoral showing was in 1912, when Bull Moose Party candidate Teddy Roosevelt won 27.4 percent of the vote and garnered a very respectable 88 of 531 Electoral College votes.

Nevertheless third parties provide vital functions in American democracy. Minor parties serve as political weather vanes to signal shifting political winds. Oftentimes the two major political parties are slow to react to pressing societal problems. Third-party activities tend to accelerate in an effort to draw attention to these unresolved problems and are often incubators of innovative public policies. Indeed, some of our nation’s most successful significant legislation—child labor laws, collective bargaining, Social Security, unemployment compensation, civil rights acts—began as third-party planks.

**PARADOX FIVE.**

Despite the proliferation of minor political parties, the United States has consistently maintained a strong two-party system.

For all practical purposes, the United States has a strong, two-party political system. However, it has not always been a strong two-party system, nor has it always been the same two parties. As detailed earlier, the first two-party rivalry was the Federalist and Democratic-Republican. By the election of 1828, the Democratic-Republican split into two new parties—the Democrats and the Whigs. In 1854, the Republican Party burst onto the political stage, consisting primarily of northerners and westerners who opposed slavery. Soon after, during the Civil War (1861–1865) and until 1932, the Republican Party came to dominate the Congress and the White House, winning all but four presidential elections.

Since World War II, America’s leadership has seesawed between Democrats and Republicans with neither party gaining a long, sustained partisan edge.

What accounts for this two-party system when so many options are available to American voters? One explanation is tradition—the two-party system is so deeply rooted in our history that Americans simply embrace it out of force of habit. Some attribute our two-party system to the achievement of social consensus. According to the theory, if a society can agree on its fundamental values, then all that is needed are two major parties to work out the details of the secondary issues. Historically, for example, both major political parties, be it Federalists or Democratic-Republicans or Whigs and Democrats, reached agreement on such central political tenets as capitalism and respect for private property. While the two major parties may haggle over marginal tax rates, for example, they agree that the government should not completely redistribute income. Such a consensus, it is believed, obviates
the need for third parties. Others suggest our two-party system is rooted in political socialization. Studies reveal that the transmission of party identifications rests primarily on the American family and that most American parents are either Democrats or Republicans or lean to one of the two major parties. Very few American families socialize their children to identify with third parties. But none of these so-called “explanations” is completely ironclad.

Perhaps the most plausible explanation for the perpetuation of the American two-party system rests with our legal system. Political parties are largely regulated by state election laws and the states have imposed myriad legal obstacles for third parties to surmount. For example, in most states, Democrats and Republicans are provided permanent ballot slates; their nominees are automatically placed on the ballot. Third parties, however, must either submit petitions signed by a specified number of registered voters, usually from designated voting districts within a very limited time, or win a specified number of votes in a preceding election, say 5-8 percent of the vote in the preceding gubernatorial election, in order to get on the ballot.

Another legal impediment to third parties is the manner in which legislators are elected. In the United States, virtually all members of Congress, state legislators, and city council members are elected from election districts where the “winner-takes-all.” This makes it extremely difficult for third parties to gain a legislative toehold in the United States because a third party candidate is unlikely to secure the most votes.

**PARADOX SIX.**
**Democrats and Republicans are both similar and different.**

What is the difference between Democrats and Republicans? This may be the most perplexing query in American politics. Stereotypical responses include “Republicans are the party of the rich and Democrats are the party of the poor” or “Republicans are the party of the status quo and Democrats are the party of change.” Others believe there are no differences between the two parties. Social critic Gore Vidal wrote, “There is only one party in the United States, the Property Party ... and it has two right wings: Republican and Democrat.” Likewise, Alabama Governor George Wallace, independent candidate for president in 1968, quipped: “There’s not a dime’s worth of difference between the Democrat and Republican Parties.”

Both the Democratic and Republican parties are ideologically flexible organizations that occupy the center, or mainstream, of American politics. They are willing to moderate their stances on issues and public policies in order to get more votes. Another way in which Democrats and Republicans are alike is in the selection of members. All that is needed to become a Democrat or a Republican is a simple declaration. Since no membership tests or dues are required, the Democratic and Republican parties are frequently referred to as political parties.
1. Why do you think early leaders such as George Washington and John Adams advised against the formation of political parties? How do you think such warnings would be received today?

2. Do you think that government regulation of political parties is adequate? If not, what reforms would you propose?

3. Can you think of other institutions in our society that are not mentioned in the Constitution but influence our government as significantly as political parties?

**Discussion Questions**


As “mass” political parties. In sum, the Democratic and Republican parties are similar in that they are “broker” and “mass” political parties.

Aside from the people who support Democrats and Republicans, there are significant differences between the two parties with respect to public policy. The overarching policy differences concern the efficacy and limits of government with respect to three important principles of American democracy—liberty, security, and equality. In general, Democrats favor liberty over security and equality over liberty, while Republicans favor security over liberty, but liberty over equality. A Democrat might oppose provisions of the Patriot Act as a violation of privacy, while a Republican might support those same provisions as a matter of national security.

**PARADOX EIGHT.**

Political parties are private, semipublic organizations.

Even though the U.S. Constitution is devoid of any reference to political parties, there is nevertheless an evolving body of constitutional law regarding political parties. The central problem the Supreme Court has struggled with over the years is the nature of political parties. Early on, political parties were considered private organizations that enjoyed all the constitutional protections for freedom of expression. However, because political parties significantly influence our election process and the rights of citizens to vote, they are considered semipublic organizations.

**PARADOX NINE.**

Political parties have played a critical role in American constitutional history, yet they are often vilified.

Political scientist E. E. Schattschneider perhaps underscored this best when he forcefully wrote: “The rise of political parties is indubitably one of the principal distinguishing marks of modern government. The parties, in fact, have played a major role as makers of governments, more especially they have been the makers of democratic government... democracy is unthinkable save in terms of the parties...the most important distinction in modern political philosophy, the distinction between democracy and dictatorship, can be made best in terms of party politics. The parties are not therefore merely appendages of modern government; they are the center of it and play a determinative and creative role in it.”

Unfortunately, Americans do not always appreciate the important nature and functions of political parties. They are frequently vilified in the media, shunned by many citizens, and the fodder for political pundits, late night comedians, and even politicians themselves.

The challenge for civic educators is to convey truthful and balanced information about political parties. The task is not easy. Many social studies textbooks downplay or even ignore the critical role political parties play in American democracy. Teachers, too, often avoid discussions about political parties, out of fear they will be accused of injecting partisanship into their classrooms. The prudent course of action is to allow students the opportunity to engage in civil discourse and ultimately decide for themselves. Such is the nature of American democracy.

IN
Learning Gateways

Regulating Political Parties in Your State

As author Richard Hardy explains in “Paradoxes of Political Parties in American Constitutional Development,” regulations of political parties are typically found at the state level and vary from state to state. In this activity, students read a press release about political party nomination policies in the state of Washington and then analyze their own state constitutions and statutes to discuss political party regulation in their own state. The press release is available at: www.insightsmagazine.org.

Materials
- LPWA Suit Press Release
- Copy of or access to your state’s constitution
- Copy of or access to major and minor party regulations for your state, typically found at the Secretary of State or State Legislative websites

Procedure
1. Distribute and ask students to read the “LPWA Suit Press Release,” which details a lawsuit filed in August 2012 by the Libertarian Party of Washington State against the state’s Republican Party. The Libertarian Party claims that the Republican Party did not follow proper nominating procedures under Washington state law, thereby forfeiting their “major party” status in the state, and losing the opportunity to print a candidate on the ballot for the November election.
2. Discuss the release with students:
   - What is this press release about?
   - Who are the parties involved in the lawsuit? What rules are the Libertarian Party accusing the Republican Party of violating?
   - What are possible consequences of this lawsuit?
   - What happened to the lawsuit? Why do you think this happened?
   *Note that the lawsuit was thrown out of court in August 2012, with the judge reasoning that the law being challenged was part of a set of primary rules that were effectively repealed in 2006 when the state adopted a new system. The judge also explained that political parties in the state may decide how to nominate their own candidates.*
3. Draw students’ attention to the press release’s mention of state laws that govern political parties. Mention that some states establish laws that govern political parties, including requiring parties to register with the state, and certain criteria by which parties are classified as either “major” or “minor” parties. Explain that you will explore the laws in your state governing political parties.
4. Distribute copies of your state’s constitution. In small groups, ask students to study the document and look for any mention of political parties. As a class, make a list of, and discuss, political party references in your state constitution, if any.
5. Distribute copies of your state’s political party regulations. Ask the groups to read some of the requirements for political parties in your state and then discuss the following questions:
   - Were regulations of political parties in your state found in the state constitution or state statutes, or both?
   - What are some of the requirements for starting a political party in your state?
   - Why do you think these regulations are in place? Are they fair or adequate? Why or why not?
   - Does your state distinguish between “major” and “minor” political parties? What are the differences between the two?
   - Do candidates in the general election in your state need to declare a political party?
6. Wrap up discussion, or consider an extended activity to encourage further exploration.

Extended Activities
1. Students might research what political parties are registered in your state. How many major and minor parties are registered? How many members do the parties have? Students might produce a chart or infographic depicting the information that they find.
2. Research when and where your state’s political party conventions take place. Consider visiting a convention, watching via video, or inviting a delegate to your classroom to discuss their experiences.
3. Students might read two different political party platforms from your state, focusing on one or more specific issues, and then answer the following questions: (a) What were the main points in your state party platforms? (b) What questions do you have for the parties after reading their platforms? (c) How were the two state party platforms similar or different from one another?
4. Ask students to select another country (ex. Mexico, Canada) in the world to research what political parties exist in that country. How does the country’s political system compare to that of the United States? How does that political system shape politics and government in that country?
How Are Super PACs Reshaping the Political Landscape?

New players in the game

>>> By Michael Beckel

In 2010, a new political animal arose on the landscape: the so-called Super PAC.

Super PACs are political organizations that can change the dynamic of an election literally overnight. They are allowed to receive contributions of any amount from all sorts of donors. One deep-pocketed individual, union, or corporation can make a hefty donation to a Super PAC, and that translates into a blizzard of campaign advertisements—ads that can overtly encourage voters to support or oppose a candidate. There are few limits, but Super PACs, like regular political action committees, are required to disclose all donors who give more than $200.

Previously, if a group wanted to advocate for the election or defeat of a federal candidate, the group could only accept contributions of $5,000 per year. Corporations and unions were also prohibited from using their treasury funds on such messages. But those limits were removed in the wake of the U.S. Supreme Court’s blockbuster campaign finance ruling known as Citizens United v. Federal Election Commission, which came down in January of 2010.

In that controversial 5-4 decision, the Court’s conservative justices ruled that corporations should be allowed to use treasury money to fund what are known as “independent expenditures” in campaign finance parlance. Such expenditures advocate for the election or defeat of a candidate and are produced independently of a candidate’s campaign. Additionally, the Citizens United decision held that independent expenditures, including those made by corporations, “do not give rise to corruption or the appearance of corruption.” Many campaign finance reform advocates dispute this premise.

During the 2010 midterm elections, Super PACs spent more than $65 million, according to the nonpartisan Center for Responsive Politics. This election cycle, Super PACs have raised more than $300 million, through the end of June, with only a handful of groups accounting for the majority of the receipts.

During the Republican presidential primaries, each major contender was aided by at least one Super PAC. The Super PAC donations from wealthy businessmen, such as casino magnate Sheldon Adelson and investor Foster Friess, helped extend the lifespans of their preferred candidates—Newt Gingrich and Rick Santorum respectively. Now, President Barack Obama and his GOP rival Mitt Romney are both benefiting from tens of millions of dollars in Super PAC spending.

This is the first presidential election in which Super PACs are playing a role—most often as attack dogs, slamming political rivals in harsher terms than the candidates themselves would use. The power of Super PACs can be even more acute at the congressional level, where fewer players are often involved and groups can get a bigger bang for their buck.

And PACs with super powers are here to stay. In 2011, the FEC ruled that PACs can maintain Super PAC arms to produce independent expenditures that operate in tandem with their traditional bank accounts, which are funded by limited contributions and are typically used to donate to politicians.

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Political candidates are subject to various safeguards established by the Federal Communications Act, such as equal opportunities (known as “equal time”) and lowest unit charge (“LUC”) rates applicable during the political “windows” (45 days before a primary and 60 days before an election). Those safeguards apply only to “uses” by candidates. A “use” requires that the spot be sponsored by a legally qualified candidate or that candidate’s authorized campaign committee and that it contain the recognizable voice or image of the sponsoring candidate for at least four seconds.

By contrast, third-party ads, which include those sponsored by the Super PACs, are not subject to equal time or LUC rates. By definition, money spent by Super PACs must be “independent” expenditures that cannot be “coordinated” with or sponsored by candidates. Thus, there can be an unlimited amount of money spent on such ads. To be sure, broadcast time is finite and there are only so many ads that can be aired during an election period. However, cable TV and satellite operators have multiple channels on which they can sell ads and thereby increase the potential number of Super PAC ads exponentially.

So, theoretically at least, Super PAC ads do have the very real possibility of influencing election results. But I believe there are several countervailing factors that inevitably act to limit the influence of these ads:

1. Our laws require that all advertising be more or less truthful. While candidate “uses” are exempt from censorship regardless of what is said in those ads, there is no similar safety net for third-party Super PAC ads. Sponsors and stations airing those ads are subject to defamation lawsuits, and the ads cannot be willfully false or misleading.

2. Super PACs on both sides of the political spectrum act as a check on one another. If a Republican Super PAC airs a negative campaign ad against the Democratic candidate, a Democratic Super PAC is likely to counter that advertising within a matter of days, if not hours. Thus, voters are likely to be exposed to ads on both sides of the issue.

3. Does this favor the side that has the most money and has the ability to air the most ads? Perhaps so, although that is the price we pay for having freedom of speech. While Congress or the courts could limit the amount of money spent on behalf of any candidate, it could be argued that such limits on third-party spending inhibit free speech and amount to censorship. Theoretically, at least, the more speech that is permitted, the more informed the electorate will be.

4. There are various views and research as to the effectiveness of negative ads. Swing voters are just as likely to be turned off by negative ads as they are to be swayed by them. At some point, saturation of advertising (positive or negative) disserves the candidate it is trying to help by turning off voters to that candidate, if not the entire political process. So, Super PACs need to be wary of both the content of their message as well as the diminishing returns from overexposure. In essence, human nature becomes an effective check and balance on the effectiveness of Super PAC advertising.

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Super PACs are making things worse for democracy by increasing the danger of corruption. The money chase, now with unlimited outside money, creates too many unavoidable conflicts for lawmakers. Lawmakers worried about millions spent against them will bend to either please those outside groups or to curry favor with other groups to fight back. Outside money should be limited to prevent this pervasive conflict of interest, which arises between the interests of the big spenders and the public interest.

To make things worse, we have seen some political organizations shift from the Super PAC type of organization to the 501(c)(4) form of organization. These are groups organized under the tax code for “social welfare” purposes. But we are, for the first time, seeing these groups spend big money on election-related advertising. They don’t need to disclose their contributors publicly.

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It was Howard Dean’s 2004 presidential run that gave the first real glimpse at what was possible when you married this Internet thing with the political fervor that grips the United States every four years. One sign that the Dean campaign was different was that its “nerve center,” as campaign manager Joe Trippi put it, was a blog—specifically Blog for America, an often half-baked gathering point for campaign staffers and grassroots faithfuls to hash over every aspect of the campaign. It was on the blog that supporters reported back on what was happening on the trail. It was on the blog that volunteers worried that “people-powered Howard” was perhaps eating too many of the cookies they were sending it. It was on the blog that his campaign religiously tracked the money that was flowing over the online transom, often in drips and drabs of 10 and 20 and 50 dollars, but that added up to millions—in other words, enough to convince the political establishment that something funny was going on up in Burlington.

Of course, Howard Dean’s campaign flamed out after the Iowa caucuses. But he left behind a vision of a presidential campaign that could feel like, well, a community. “A cynic,” wrote Trippi, “once compared it to going to a restaurant and having the guy next to you cook the meal.” In truth, it was often messy and undisciplined. Still, there seemed to be something to the idea that digital politics could offer a new way to elect a president of the United States. Some of Dean’s digital aides regrouped, spent a few years learning, and remerged to take part in another long-shot campaign—that of first-term Senator Barack Obama.

This time, things went a bit better for them. And along the way, the Obama campaign ushered in a new era in American politics. The Obama model boiled down to the idea that a presidential campaign could be, at its core, the combined efforts of millions of Americans who, connected by the Internet, are willing to dedicate time, money, and passion. That vision matched the campaign’s field organizing approach, one deemed the “snowflake” approach that gives volunteers real leadership roles in their communities and tasks them with building out ever larger networks of supporters.

On the technology front, the Obama campaign innovated on what the Deaniacs had built. When things finally blew up, volunteers had been cobbling away on a software platform they called Dean Space, a sort of campaign-in-a-box that let supporters grow their own...
But, critically, MyBO also let everyday people push back against the Obama campaign’s Chicago headquarters. One moment stands out. Angry that Senator Obama was backing a bill called the Foreign Intelligence Surveillance Act that offered telephone companies immunity for warrantless wiretapping, would-be Obama backers started a MyBO group called “Get FISA Right.” By midsummer of 2008, it had grown to 16,000 members, making it the largest group on the site. It demanded Obama’s attention.

It got it. In early July the Obama campaign posted a note said to be written by Obama to their own blog. Obama didn’t back down. Instead, he walked his critics through his reasoning. FISA wasn’t a perfect bill, he said, but it was better than no bill. And it was a better bill than earlier drafts had been. Wrote Obama, “the truth is that your organizing, your activism and your passion is an important reason why this bill is better than previous versions.” The campaign tasked three policy staffers with responding in real time to comments on the post. More than 600 comments poured in and staffers stuck around for an hour and a half. In that feedback loop, you could begin to see what he meant when he promised, in his FISA note, to run a White House that “asks you to play your part in shaping your country’s destiny.”

Throughout his rather improbable 2008 campaign, that collaborative spirit paid back Obama handsomely. For one thing, his campaign raised more than half a billion dollars online; nearly half of his total haul came in donations of $200 or less. For another, his campaign eagerly embraced the sort of creative output that supporters were willing to contribute. Musician will.i.am of the Black Eyed Peas, for example, took it on his own initiative to create a soaring video that set Obama’s “Yes We Can” campaign speech to music. Put up on YouTube and other video sites, and emailed out by the campaign under Michelle Obama’s name (subject line: “You have to see this”), will.i.am’s video got more than 20 million views in under a month—and helped solidify a public perception of Obama as a visionary leader.

By embracing the excitement that was popping up online and funneling it into the campaign, Obama created a wired, networked, collaborative campaign the likes of which the United States hadn’t yet seen.

Jump ahead to 2012. Much of the attention in this presidential contest has
Technology often bends towards professionalism or field strategy. The debate has spiked down as the volume of the online practice of presidential politics has died out. It’s probably fair to say that some of the excitement of the latest controversy is probably paid to the role of social media, particularly Twitter. The medium didn’t have much traction in 2008. This time around, it’s where the campaigns, their surrogates, and the press go to debate the latest controversy. It’s probably fair to say that some of the excitement about technology’s promise for the practice of presidential politics has died down as the volume of the online political debate has spiked.

What we’re seeing now isn’t entirely surprising. For one thing, the Howard Dean of 2004 and Barack Obama of 2008 were underdogs, and the Internet has proven particularly good at helping underdogs break into the mainstream. Obama is now, of course, president of the United States, and with that comes a natural reluctance to hand his campaign over to volunteers with the same degree of freedom. On the other side of the aisle is the Mitt Romney campaign. In recent years, Republican campaigns have generally focused less on voter-to-voter persuasion than their Democratic counterparts, which leaves campaign volunteers with simply less to do before election day.

But there’s more at work than plain old incumbency or field strategy. Technology often bends towards professionalization, in the way that political blogs went from amateur obsession to a facet of the paid media. In much the same way, digital politics has gone pro. In part because of the Obama campaign’s demonstration that there is a lot of money to be raised online, digital teams are at an all-time high, size-wise. Both the Republican and Democratic campaigns have a fleet of coders, designers, app makers, data experts, and other digital experts. Both sides are equipped to produce video that Madison Avenue would be proud to put out; an infographic called “The Life of Julia” created by the Obama campaign was praised by people of all persuasions for its high-production value, if not its policy prescriptions. With that kind of skill at the ready, there’s simply less incentive for campaigns to reach outward for help.

Moreover, campaigns have gotten advanced at using technology to do some of the on-the-ground work traditionally tasked to volunteers: finding supporters and persuading them to back your candidate.

Many fields these days are obsessed with the idea of “Big Data,” and political campaigns are no different. Campaigns are collecting information on potential voters from all sorts of sources: what we tell canvassers who knock on our door, our voting histories, what ads we click when online, how we use social networks such as Facebook, and more. By mashing all that information together, campaigns are figuring out both how to find prospective voters and what to tell them when they find them. The Romney campaign, for example, has studiously gone after what they call “off-the-gridders”—those Americans who get their news from their iPads, say, instead of the nightly news, and whose TV consumption comes in the form of DVR-saved shows where commercials are easily skipped. For those folks, they run customized ads in places such as the video service Hulu and the music service Pandora. It’s generally safe practice to be wary of claims that campaigns have figured out how to use data to target voters with a laserlike focus, but they’re good enough at it these days to compete with companies who are doing the same things.

Data management might sound deadly dull. But there’s a case to be made that handling data with real skill helps to make politics more accessible. Good information management can mean that the enthusiasm and efforts of voters don’t get squandered. On traditional campaigns, it hasn’t been unheard of for volunteers to bring back their checklists from a day spent...
canvassing and see them tossed into a cardboard box that didn’t appear to ever be emptied. Today, for example, an Obama smartphone app lets volunteers pull up a map that indicates who in their neighborhood they might go try to win over. It’s a boon for the candidate; it means real-time field data filters up to the highest levels of the campaign. But it also saves the door-knocker from having to trudge to campaign headquarters. During the Republican primaries, the Romney campaign put people who joined their MyMitt organizing platform to a real task: gathering the necessary signatures to get the candidate’s name on the ballot in whatever state they happened to be in. Both campaigns have phone-bank-from-home tools on their websites. Taken together, these technologies can make volunteering for a campaign more productive and less of a slog.

In that same vein, over the last two years there’s been a nationwide push to tighten laws on things such as voter identification requirements, early voting days, and the voting rights of the once-incarcerated. With sites such as GottaRegister.org and GottaVote.org, the Obama campaign is serving up localized information on casting a ballot. The Romney campaign also hosts state-by-state voter information on its site. Both are tapping into the Internet’s promise of getting people the information they need, when they need it.

That said, there’s good reason to conclude that the power of the grassroots supporter is on a downward trend. The years since the 2008 race have seen two landmark court decisions that have reshaped the role of money in American elections. With decisions in two cases, Citizens United and SpeechNow, the U.S. Supreme Court and the D.C. Circuit Court of Appeals, respectively, held that the government cannot limit either corporations or labor unions from spending money to advocate for or against a candidate, nor can they limit the dollar amount individuals would give to a group formed in an effort to do the same. Together, the courts’ decisions gave the country so-called “Super PACs.”

Unfortunately, much of the reporting on the new state of campaign spending has been muddled—no, corporations still can’t give directly to candidates, and no, individuals still can’t give unlimited amounts to campaigns—but Super PACs are ground-shifting nonetheless.

In part, that’s because while Super PACs can’t legally coordinate with campaigns, they’re still often close cousins. Priorities USA and Restore Our Future, the pro-Obama and pro-Romney Super PACs, respectively, are both led by former aides to the candidates. More importantly, huge sums of money, when strategically deployed, can shape the course of an election. Casino billionaire Sheldon Adelson and his wife, for example, chipped in $10 million to the struggling campaign of Newt Gingrich just before the South Carolina Republican primary. Much of it went to TV ads; Gingrich won. Later, Adelson gave another $10 million to back Romney’s candidacy.

The campaigns, still, have tried cultivating small donors, even in the Super PAC era. At a May fundraiser for Obama at the California house of actor George Clooney, tickets went for a whopping $40,000 a person. But the campaign raffled off a few tickets to small donors for online donations of just $3. The Romney

Discussion Questions

1. How do you think technology is reshaping the role of supporters and volunteers during a presidential campaign?
2. Do you think technology makes it easier or more difficult to communicate with a candidate? Why?
3. Can you think of other ways a candidate might use technology to reach voters?

Suggested Resources

campaign has picked up on the tactic, asking for a few bucks for a chance to "Grab a Bite with Mitt." A 2012 innovation, the small donor raffle is a win-win. Grassroots supporters get unique exposure to a previously exclusive part of the campaign (and a chance to meet Clooney, of course). The campaigns scoop up contact information and not an insignificant amount of money; those $3 can add up. That's all well and good, but you can imagine that in the crunch of the campaign, consideration naturally flows to the donor who can dash off a $10 million check when it's needed most rather than to the three million folks who would each need to kick in $3 to match that.

It's easy to start thinking that technology has failed to have the democratizing effect we once thought it might. But a look away from the two big presidential campaigns and at the margins of politics suggests that there's more left to this story.

Congressman Ron Paul, for example, has amassed an Internet army that has helped him echo his libertarian message much more broadly than the Texas Republican would be able to do alone. The odds of a President Ron Paul? Slim to none. But that dynamic has helped to inject, for example, his call for reforming the Federal Reserve into the popular political conversation.

Or a more local example: In New York City, debate is raging over a bill in the city council that would require employers to provide employees paid sick days. The Speaker of the City Council, Democrat Christine Quinn, has been chided by liberal and women's groups for refusing to bring the measure up for a vote. Amid all this, Susan Sarandon, the actor and activist and iconic New Yorker, posted on Twitter her backing for Quinn's presumed mayoral candidacy. Sarandon was quickly swamped with tweets of protest, such as "Thelma and Louise deserved #paidsickdays," many of which linked to research on the topic. Within hours, Sarandon tweeted that she thought the protestors had a point, and would raise the issue with Quinn.

Neither, of course, is as dramatic as helping to elect the next president of the United States. But actions such as those can still add up to real political change. When it comes to understanding how technology is changing politics in the United States, the first question is where to look.

Learning Gateways

Digital Media and Political Campaigns

Many candidates for elective office use social media to connect with voters along the campaign trail. This exercise, which may be done in class in an hour, will allow students to analyze and compare candidates’ use of social media at national, state, and local levels, and discuss their role in the electoral process.

1. Ask students:
   - How many of you use websites or social media to find information?
   - What makes them so useful?
   - What do you think about political candidates using these sites to reach voters?

2. Instruct small groups of students to view the websites of: (1) one candidate running for president of the United States, (2) one candidate running for U.S. Congress from your state, and (3) one candidate running for a local office. Students should try to answer the following questions:
   - What are some of the features of the candidates' website? Do you see references to social media?
   - Do the candidates share photos, videos, or other interactive content?
   - What kind of information do the candidates share? For example, do you see proposals, policies, opportunities for meetings, requests for contributions or campaign volunteers, or biographical information?
   - Do you feel like you learn more about the candidates through their websites or use of social media?
   - Overall, how effectively do you think the candidates use their website or social media? Do you see any opportunities for more effective use?
   - How many opportunities are there to contact the candidates? Are these adequate? Can you think of other ways that you might contact the candidates?

3. Ask students to compare the presidential candidate’s website to that of the down-ballot candidates. Students should try to answer the following questions:
   - How are the three websites similar? different?
   - Which sites provide the most relevant information?
   - Which candidate’s website or use of social media do you think is most effective for reaching voters? Why?

4. Allow each of the small groups to present their findings to the rest of the class. Wrap up by asking each group to develop a digital media strategy for a hypothetical political campaign that outlines what might go on the website, social media platforms the campaign will target, and best practices for use.

Want to learn more? Visit us at www.insightsmagazine.org.
When the 17th Amendment turns 100 next year, the event is likely to pass mostly unnoticed. Few Americans can tell you what the 17th Amendment says, why it was enacted, or how it impacts their lives. Yet this constitutional provision affects elections in every state, was recently targeted for repeal by Tea Party activists, had a starring role in a beloved Hollywood film classic, and helped set the stage for the fall of former Illinois Governor Rod Blagojevich.

Ratified in 1913, the 17th Amendment provides for the direct election of U.S. senators. Senators had been previously chosen by state legislatures rather than by popular vote. The amendment was hugely controversial when it was first introduced, took more than a decade to enact, and then quietly disappeared from the realm of public discourse for more than nine decades before recently popping back on to the radar screen.

Although there had been a number of earlier attempts to reform the process for senatorial elections, the effort did not gain steam until William Jennings Bryan and his fellow Progressives took up the cause in the late 19th and early 20th century. The Progressives viewed the direct election of senators as a way to put power directly into the hands of the people. While there were a number of well-known opponents to the proposed amendment, including Elihu Root, a U.S. senator, former secretary of state, Nobel laureate, and distinguished president of the American Bar Association, Congress adopted the proposed amendment in 1912. On April 8, 1913, the 17th Amendment was ratified.

If there was a mourning period for the loss of the senatorial election system designed by the framers, it passed fairly quickly. For most of its history, the 17th Amendment became something of a historical footnote—a little discussed constitutional change sandwiched between the consequential 16th Amendment (providing for an income tax) and the more controversial 18th amendment (Prohibition).

In order to get a perspective on the 17th Amendment’s phoenix-like return as a topic of political debate in the 21st century, one must return briefly to the 18th century. In a 2010 National Review article, George Mason University School of Law Professor, and advocate for repeal of the 17th Amendment, Todd Zywicki argued:

At the Constitutional Convention in Philadelphia, the proposal was ratified with minimal discussion and recognized as the approach...
“most congenial” to public opinion. Direct election was proposed by Pennsylvania’s James Wilson but defeated ten to one in a straw poll. More important than public opinion, however, was that limitations on direct popular sovereignty are an important aspect of a constitutional republic’s superiority to a direct democracy. As [James] Madison observes in Federalist 51, “A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions.”

Zywicki went on to refer to election of senators by state legislators as a “cornerstone” of two of the key “auxiliary precautions”—federalism and separation of powers. “Absent some direct grant of federal influence to state governments, the latter would be in peril of being ‘swallowed up,’ to use George Mason’s phrase. Even arch-centralizer [Alexander] Hamilton recognized this institutional protection was necessary to safeguard state autonomy,” he wrote.

So why did Bryan and other Progressives believe that the time had come to abandon the framers’ design for Senate elections? In addition to their power to the people mantra, Progressives believed that state legislatures were corrupt and could no longer be trusted with selecting senators. Numerous commentators who have researched the issue have found scant historical evidence of corruption, so these concerns may have been unfounded.

A second reason that Progressives favored the 17th Amendment was that legislatures frequently deadlocked over picking a senator because of partisan interests. Between 1891 and 1905, 46 elections were deadlocked in 20 different states. One Delaware Senate seat was vacant for four years as this sort of bickering went on. The 17th Amendment was very effective in rectifying this situation.

The Debate Makes a Comeback

As “states’ rights” has come back into vogue as a conservative rallying cry in recent years, the 17th Amendment has increasingly become a target. Proponents of repealing the 17th Amendment argue that doing so would help restore the delicate balance provided by federalism as envisioned by the framers.

Because state legislatures chose senators, members of the Senate had a built-in incentive to be responsive to the wants and needs of those legislatures. In fact, state lawmakers would likely not vote to send someone to the Senate in the first place unless they thought that person would be responsive to their needs. The state legislatures were the constituency to whom the senators were responsible.

During the 19th and into the 20th centuries, state legislatures sometimes took advantage of their sway over their state’s U.S. senators. State legislatures would issue requests, but it was understood that the senators could not be subject to recall, that senator might face an uphill battle when he was up for reelection. So what effect has the 17th Amendment had on this dynamic between a state and its senators?

In the post-Seventeenth Amendment era, state legislatures continued to issue requests, but it was understood that the senators...
would suffer any political consequences on the merits of their votes rather than for having disobeyed an order from the legislature. Thus, an important consequence of the Seventeenth Amendment has been that senators from any given state have been less inclined to vote together; senators have become more independent since 1913.3

By negative implication, one could conclude that repealing the 17th Amendment would have the consequence of making senators from the same state increasingly likely to vote as a bloc. While this could be a positive thing in terms of a state presenting a unified front on major issues, it would also hinder senators from acting independently, forming alliances, and voting in the national interests when those interests might collide with the concerns of their state legislature.

Interim Appointments

In addition to changing the way senators are elected, the 17th Amendment modified the way interim appointments are handled when a senate seat falls vacant due to a senator’s death, disability, or midterm retirement. Previously, legislators elected a new senator to complete the term. (When the legislature was not in session at the time the vacancy occurred, a governor could make a temporary appointment until the legislature came back into session.) Under the 17th Amendment, the governor appoints an interim senator to fill the vacant senate seat until a popular election can be held.

With Progressives concerned about corruption in political machine-run state legislatures, it makes sense they also believed that allowing state lawmakers to pick interim senators would lead to a corrupt result.

However, with the benefit of hindsight, this change may have been a case of the cure being worse than the disease. By taking the decision away from state lawmakers and placing it in the hands of a single individual, the interim-selection process became even more susceptible to abuse, including cronyism, political horse trading, and appointment by personal whim.

In the 1939 Frank Capra classic movie Mr. Smith Goes to Washington, a sitting U.S. senator dies at a crucial time for the state political boss, Jim Taylor, who is trying to get a corrupt dam project pushed through the Senate. Under the 17th Amendment, the job of appointing a successor to the dead senator falls to the governor, “Happy” Hopper, who is in the pocket of Taylor and his political machine. Taylor dictates that the governor appoint a known stooge of the machine as the interim senator to ensure the dam project’s success.
Balancing this request with his reelection prospects, the governor appoints Jefferson Smith (played by a young Jimmy Stewart), the leader of a state youth group called the Boy Rangers. The governor reasons that the young, flag-waving patriot will be so naïve and starry-eyed at the prospect of being in Washington, D.C., and in the U.S. Senate, that he will be easy for the machine to manipulate.

Corrupt political bosses rarely get their way in feel-good Hollywood movies. Predictably, Smith finds out about the corrupt dam project, and turns out to be more of a Boy Scout than they bargained for. Taylor and the machine turn against the idealistic young senator, ginning up phony corruption charges against Smith. After an exhausting all-night filibuster, however, Smith manages against all odds to single-handedly bring down the entire political machine.

As *Mr. Smith Goes to Washington* exemplifies, there is no reason to believe that a political boss who went to the trouble of taking over a state capitol wouldn’t also be able to get his candidate into the governor’s mansion. In fact, a governor, as a single individual, may be more susceptible to the machinations of a political machine than would an entire state legislature. This is a major falling down point for the 17th Amendment as an anticorruption measure for interim appointments. While things turned out alright for the people of the state in the movie, real life rarely turns out to be so Capraesque.

**Jesse Ventura and Blagojevich**

While working as a legal journalist in Minnesota in 2002, I had the opportunity to see the 17th Amendment’s interim appointment provision in action. Senator Paul Wellstone, a Democrat, was engaged in a heated reelection campaign when he was killed in a plane crash on his way to a campaign appearance shortly before the election. The governor, Jesse Ventura, initially indicated that he would appoint a Democrat as interim senator. Things changed after Ventura attended Wellstone’s memorial service, which many felt took on the appearance of a political rally. Ventura was upset and reportedly stormed out. Instead of appointing a Democrat, he appointed his third-party friend and political ally Dean Barkley, whose major claim to fame had been running

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Ventura’s successful gubernatorial campaign. Barkley had also founded Ventura’s party, the Reform Party of Minnesota (which later became the Independence Party). The surprise appointment of a third-party candidate came at a time when the Senate was almost evenly balanced between Democrats and Republicans.

State Democrats and Republicans were both unhappy at the prospect of a third-party candidate serving long in the Senate on an interim basis, so they opted for a fast-tracked election. St. Paul Mayor Norm Coleman had already been campaigning for months as the Republican nominee for Senate, and defeated former Vice President Walter Mondale, who came out of political retirement to hoped to permanently obtain the seat in the election, Blagojevich knew that the seat would have a lot of value for someone.

Blagojevich went too far in his quest for cashing in on the interim appointment. He was convicted of federal corruption charges, including attempting to sell or trade the Senate seat. In addition to being sentenced to 14 years in prison, Blagojevich, a lawyer by training, was disbarred, and finally, impeached as governor. He is currently serving his time at a federal prison in Colorado.

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4. In Minnesota, the full name of the state party is Democrat and Farm Labor (DFL).
What if Jefferson and Adams Ran Attack Ads?

During the spring of 2012, students in historian Patrick Spero’s Politics of the Presidency class at Williams College participated in an experimental project. Instead of producing papers, the students created video campaign ads for the presidential elections from George Washington in 1789 through Abraham Lincoln in 1860. The students could only use images, quotes, documents, and music—primary sources—from the time of the election. RealClearHistory partnered with the class, and displayed videos that the students produced.

Q: Why did you do this?
I wanted to use technology to make history seem relevant without diluting it. I could have assigned papers, but that could seem boring. Producing a video like this required students to have the same knowledge, but apply it to a different medium. Video also introduced political images and music that were important to 19th century politics but is hard to convey through a lecture or readings. Finally, I saw this project as an opportunity for students to learn the fundamental skills of a historian—research, interpretation, and argumentation.

Q: What have you learned as an educator?
First, I had no idea how to grade these assignments. But I soon learned that these videos were very much like traditional paper assignments. I could tell how well a student had researched an election, because they had to be either for or against a candidate, they had to marshal an argument, or use evidence effectively. Their editing of the video was a lot like grading writing styles. Some videos were rough and choppy, while others flowed smoothly. The criteria ended up being very similar to grading a paper. In fact, I found that students ended up doing more primary source research for these videos than they usually did because they were always hunting for the best quotes and images to use.

Q: What about your partnership with RealClearHistory?
I think the students enjoyed knowing that their work was reaching beyond the classroom. A paper assignment would be read by me and graded, but videos have permanence and an audience.

Q: You described this as an “experiment.” How did students react?
Almost none of the students in the class had any editing experience. Some students dropped the course. I told them from the beginning not to worry, that I had no idea how this was going to work, and when I was stumped, or when I learned something new from them, I acknowledged it. I think it helped create a collegial atmosphere that allowed the students to share knowledge and helped facilitate discussions about the subject matter.

Patrick Spero is assistant professor of history and leadership studies at Williams College. His research focuses on early American history, particularly political history. Previously, he was a producer, education director, and researcher for Now Debate This!, a multimedia education project that explored the lives and legacies of George Washington and Abraham Lincoln.

To learn more and see some of the student-produced videos, visit RealClearHistory, at: http://goo.gl/Vix53.

What Students Are Saying

One of the biggest challenges I faced was finding enough compelling primary source images to create an effective ad, especially for the earliest elections. I learned that the best ads were created not only from information alone, but the way in which it was organized or presented.

Amiee Dennett,
Senior, Political Science

I was asking myself questions that a campaign manager would be asking, which was very cool: What angle am I going to take? How can I show my candidate’s strengths while exposing the weaknesses of the opposition? Minute details became important, like looking for an image that cast the other candidate as uncaring, or making sure the words you chose do not isolate part of the country. Some times this was very difficult when creating a video for a candidate who you know went on to lose. Gaining experience in video production and editing was also an invaluable skill.

Dan DiVietri,
Senior, History and Economics

I had no previous experience with video editing. After a quick tutorial from the technology department, our class built a foundation. From there, it was a lot of exploring and sharing with one another. Making the videos allowed what I learned to become cemented into my head. Often, when writing a paper, especially a longer one, we get into a daze and the words don’t always stick. The video projects stimulated multiple senses, and suddenly the Alien and Sedition Act had an image, sound, and words.

Katy Carrigan, Junior, History

This summer, I am working on a U.S. Senate campaign. When the media secretary and campaign manager found out I could edit video, and saw what I made for class, they decided I could put campaign videos together.

Phil McGovern, Sophomore, History and Leadership Studies
WHAT’S ONLINE?

Download Handouts—
All of the handouts mentioned in this issue are available in one location. Go get them.

Opinion Matters—
Of the U.S. Supreme Court, that is. Explore a document map and define key terms that will help with reading a Supreme Court opinion.

Watch the Campaign Videos—
Link to the campaign videos made by the Williams College students featured in this issue.

Primary Source Documents—
From your state’s Electoral College Certificate of Vote to the holdings of the Library of Congress, there are plenty of primary sources to incorporate into your classroom.

Podcast about political party conventions from Backstory with the American History Guys.

Nominate “Profiles”
Know an innovator in the classroom? A dynamic expert in the field? Please let us know.

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