

## THE AMERICAN PRESIDENCY

The American presidency was a deliberate creation, an invention. In this respect the presidency is unlike the office of the British prime minister, which evolved gradually during the eighteenth century without ever being codified. No one can definitively say who was the first prime minister, but every schoolboy and schoolgirl knows that George Washington was the first president. Prior to 1787 there was no American presidency; indeed there was no national chief executive of any sort.

A basic premise of this course is that the contemporary presidency has been profoundly shaped by the choices made in Philadelphia in the summer of 1787. Accordingly, we will spend a good deal of time examining the contest of opinions expressed at the Constitutional Convention and during the ratification debates. The aim is to illuminate the roads not taken as well as the path eventually selected by the framers, and to think about how the presidency and American history would have looked different had different choices been made at the convention. We will also examine the ways in which recent controversies are rooted in constitutional decisions made more than two centuries ago. We will also explore how the formal powers the framers vested in the president have changed over time, and how the debate over these powers has evolved.

Institutions, constitutional structures, and formal powers matter. But so, too, do individuals, especially the individual selected to be the president. We will spend a number of weeks investigating the question of presidential character. Questions will include: How much if at all does presidential character or leadership style help predict presidential performance or success? Should a president's character matter to voters? Can we tell good character from bad character? What counts as good character? Do good people make better presidents? Should presidents never tell a lie? Should they always keep their promises?

In this election year we will also focus, naturally enough, on the presidential selection process. Why is it the way it is, and how can it be improved, if at all? Would alternative modes of nomination produce better candidates? Should the electoral college be abolished? Are the media too hard on candidates and presidents? And who is going to win in 2008?

Participation in class discussion is a vital component of this class and will be worth 30 percent of your grade. Active participation entails doing all the reading, coming to class prepared to discuss the reading, and contributing usefully to class discussions. Another 30 percent of your grade will consist of frequent response papers (generally in the range of 300 to 800 words) and occasional in-class writing assignments. At the end of the semester you will be required to revise two of these response papers into a longer paper of 1600 to 1800 words. These revised papers will each be worth 20 percent of your grade and will be due Monday, December 15 at noon.

Students who miss a class, whether excused or unexcused, must write a 600 word paper analyzing the reading that was assigned for the day they miss. Your participation grade in the course will be lowered by 1/3 for every 600 word paper you do not turn in within a week of your return to class. More than two unexcused absences will result in a full grade deduction from your final course grade; each additional unexcused absence will result in an additional deduction of one full grade from your final grade. Persistent lateness or failure to prepare adequately for class discussions can also result in deductions from the final grade.

Required texts are available for purchase at Willamette University Bookstore. Texts to be purchased are:

Richard J. Ellis, ed., *Founding the American Presidency* (1999)

Richard J. Ellis and Michael Nelson, *Debating the Presidency* (2006)

James Pfiffner, *The Character Factor: How We Judge America's Presidents* (2004)

Stephen Skowronek, *Presidential Leadership in Political Time* (2008)

## **I. Introduction** (2 weeks)

### 1.1 Presidents Past and Present (Wednesday, September 3)

#### 2.1 Is the Presidency Too Powerful? (Monday, Sept. 8)

George Reedy, "The American Monarchy," from *The Twilight of the Presidency* (1970), 17-28

Henry Graff, "Bush and the Plight of the Presidency," *The Berkeley Electronic Press*, 2006

John Yoo, "How the Presidency Regained Its Balance," *New York Times*, September 17, 2006

Harvey Mansfield, "The Case for the Strong Executive," *Wall Street Journal*, May 2, 2007

Matthew Crenson and Benjamin Ginsberg, "Upsizing the Presidency and Downsizing Democracy," in *Presidential Power: Unchecked and Unbalanced* (Norton 2007), 352-68

### 2.2 One President or Many? (Wednesday, Sept. 10)

Ellis, *Founding the American Presidency*, 1-5, 31-59

Jeffrey Rosen "The Power of One," *The New Republic*, July 24, 2006

Friday September 12 Willamette University's Center for Law and Government is hosting a conference on "Presidential Power in the 21<sup>st</sup> Century." You must choose one of the four sessions--"The War on Terror: Military Force and International Law" from 10:15 to 11:00; "The War on Terror: Judicial Process and Individual Rights" from 11:15 to 12:00; "The President and the Law: To Say What the Law Is," from 2:15 to 3:00; and "The President and the Administrative State," from 3:00 to 4:00--to attend. Each of the panels will be held in the John C. Paulus Lecture Hall (Room 201) of Willamette's College of Law.

## **II. Selecting and Removing the President** (2 weeks)

### 3.1 Selecting the President (Monday, Sept. 15)

Ellis, *Founding the American Presidency*, 63-109

### 3.2 The Electoral College (Wednesday, Sept. 17)

Ellis, *Founding the American Presidency*, 110-26

Ellis and Nelson, *Debating the Presidency*, chapter 3

### 4.1 Impeachment (Monday, Sept. 22)

Ellis, *Founding the American Presidency*, 233-54

Ellis and Nelson, *Debating the Presidency*, chapter 4

### 4.2 Is this any Way to Choose Presidential Nominees? (Wednesday, Sept. 24)

Ellis and Nelson, *Debating the Presidency*, chapter 2

## **III. Presidential Character and Political Time** (5 weeks)

### 5.1 Is Lying Always Bad? Are all Lies Created Equal? (Monday, Sept. 29)

Pfiffner, *The Character Factor*, 3-90

### 5.2 Is Flip-flopping a Character Flaw? (Wednesday, Oct. 1)

Pfiffner, *The Character Factor*, 91-169

### 6.1 A Theory of Presidential Character I (Monday, Oct. 6)

excerpts from James David Barber, *Presidential Character: Predicting Performance in the White House*

6.2 A Theory of Presidential Character II (Wednesday, Oct. 8)  
excerpts from James David Barber, *Presidential Character: Predicting Performance in the White House*

7.1 A Theory of Presidential Time (Monday, Oct. 13)  
Skowronek, *Presidential Leadership in Political Time*, 27-116

7.2 Bill Clinton: What Manner of Man? (Wednesday, Oct. 15)  
Fred Greenstein, *The Presidential Difference*, 173-188  
Other readings TBA

8.1 George W. Bush: What Manner of Man? (Monday Oct. 20)  
Ron Suskind, "Faith, Certainty and the Presidency of George W. Bush," *New York Times Magazine*, October 17, 2004  
Other readings TBA

8.2 George W Bush: His Place in Political Time (Wednesday, Oct. 22)  
Skowronek, *Presidential Leadership in Political Time*, 117-166

9.1 Predicting an Obama Presidential Character (Monday, Oct. 27)  
Ryan Lizza, "Making It: How Chicago Shaped Obama," *New Yorker*, July 21, 2008  
Other readings TBA

9.2 Predicting a McCain Presidential Character (Wednesday, Oct. 29)  
Readings TBA

#### **IV. The 2008 Presidential Election (1 week)**

10.1 Are the media too hard on presidents? (Monday, Nov. 3)  
Ellis and Nelson, *Debating the Presidency*, chapter 5  
Jeffrey Cohen, "If the News is So Bad, Why are Presidential Polls So High," *Presidential Studies Quarterly* 34(September 2004), 493-515

10.2 Explaining the 2008 Election (Wednesday, Nov. 5)

#### **V. Presidential powers (5 weeks)**

##### *War Powers*

11.1 War and Peace: Have presidents usurped the war power that rightfully belongs to Congress (Monday, Nov. 10)

Ellis, *Founding the American Presidency*, 154-80

Ellis and Nelson, *Debating the Presidency*, chapter 8

"The President's Constitutional Authority to Conduct Military Operations Against Terrorists and Nations Supporting Them," Memorandum Opinion for the Deputy Counsel to the President, September 25, 2001, available at <http://www.usdoj.gov/olc/warpowers925.htm>

11.2 The State Secrets Privilege (Wednesday, Nov. 12)

*United States v. Reynolds* (1953)

William G. Weaver and Robert M. Pallitto, "State Secrets and Executive Power," *Political Science Quarterly* (Spring 2005), 85-112.

12.1 Judging the War on Terror (Monday, Nov. 17)

*Rumsfeld v Hamdan* (2006)  
*Boumediene v. Bush* (2008)

*Domestic Powers*

12.2 The Veto Power (Wednesday, Nov. 19)  
Ellis, *Founding the American Presidency*, 129-53

13.1 Presidential Signing Statements (Monday, Nov. 24)  
ABA task force on presidential signing statements  
Other readings TBA

13.2 No class (Wednesday, Nov. 26): Thanksgiving Beckons

14.1 The Appointment Power and the Removal Power (Wednesday, December 1)  
Ellis, *Founding the American Presidency*, 181-218  
*Myers v. United States* (1926)  
*Humphrey's Executor v. United States* (1935)

**VI. The Big Questions** (2 weeks)

14.2 Would the framers of the Constitution approve of the modern presidency? (Wednesday, December 3)  
Ellis and Nelson, *Debating the Presidency*, chapter 1  
Ellis, *Founding the American Presidency*, 257-79

15.1 How democratic is the American presidency? (Monday, December 8)  
Ellis and Nelson, *Debating the Presidency*, chapters 6 and 12

15.2 Should the 22<sup>nd</sup> Amendment be Repealed? (Wednesday, December 10)  
Reading TBA