

Chapter 7: The Electoral Process

Section 1: The Nomination Process

Key Words: nomination, general election, caucus, direct primary, closed primary, open primary, blanket primary, runoff primary, nonpartisan election

A. The Critical First Step

- The most critical step in the election process is the nomination.
- Nominations are the prime function of political parties in the US & are reason for the decentralized nature of the 2 parties.
- The nomination process effectively limits who voters can vote for in the general election (the election where voters make the final decision between candidates)
- There are 5 ways used to make nominations in the US:
 - Self-Announcement
 - Caucus
 - Convention
 - Direct Primary
 - Petition

B. Self-Announcement

- Oldest form of nominating process in America
- To self-announce for office, the candidate simply announces that they are running for office
- Often used by candidates who are not part of the 2 major parties

C. Caucus

- The caucus is a group of like-minded people who meet to select the candidates they will support in an election
- The caucus is not commonly used today, but can be found in some places in New England
- The caucus is open to all members of a party

D. The Convention

- When the caucus fell out of favor, the convention rose to take its place
- The 1st Presidential nominating convention took place in 1831 by the Anti-Masons, a minor party
- On paper, the process is very democratic:
 - Local party members meet to choose delegates to the convention
 - At the county convention, party members meet to select among the local delegates to see who will represent them
 - The same happens at the state party convention
 - The chosen state delegates attend the national convention to select the party presidential candidate
- In fact, the process is largely controlled by party bosses and national leaders. By the 1870s, the convention process was under attack.

E. Direct Primary

- The direct primary has replaced the convention as the primary means to select among the various nominees of a party
- It is essentially an intra-party election between the various party candidates
- Primaries are closely regulated by state law
- There are 2 basic types of direct primary: the open primary & the closed primary.

- Closed Primary: Only declared party members can vote. Used by 26 states & DC. Party voters are allowed to cast a ballot for only one of their own party's candidates.
- Open Primary: Any qualified voter is allowed to vote. At the polls, the voter is allowed to vote for the candidates of one party only. In some states, the voter is given both party ballots and chooses which one to use in the voting booth. In other states, including Texas, you must tell the voting officials which ballot you want before going into the voting booth.
- Blanket Primary: In three states (WA, AK, CA), voters were given a ballot with the names of all candidates, regardless of party. This process was ruled unconstitutional in *Democratic Party of California v Jones* (2000).
- Combination Primary: Louisiana uses what amounts to a combination of a primary and a general election. All of candidate names are placed on the primary ballot. Any candidate who receives at least 50% of the primary vote wins the general election. If no one gets 50% of the votes, the top 2 vote-getters meet in the general election.
- Runoff Primary: In most states, a candidate needs to receive only a plurality (more votes than the other candidates) to win the primary. In 10 states, including Texas, you must have a majority (more than half) to win the primary. If no one wins a majority, a runoff election is held several weeks after the primary between the top 2 vote-getters.

F. Presidential Primary

- The Presidential Primary is a type of direct primary and a major step in the nomination process. Unlike other primaries, this primary does not actually nominate a candidate. It really does 2 things for us:
 - Allows us to express a preference among the various party candidates
 - In most states, this process selects the delegates to the national convention

G. Petition

- In this process, candidates may have their name added to the ballot for the general election by obtaining a certain number of signatures on a petition.
- It is widely used in local and state elections by independent candidates who do not have their name placed on the ballot due to party affiliation.
- It can be used to have a presidential candidate's name placed on a state's general election ballots. It is rarely used due to the number of signatures required.
- Procedures and number of signatures required varies from state to state.

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Section 2: Elections

Key Words: absentee voting, coattail effect, precinct, polling place, ballot

A. Filling Public Offices

- Extent of Federal Control
 - Most election law is state law
 - Congress does have the power to set the time for choosing electors, to set the date for casting electoral votes, and to regulate aspect of the election process

- Congress has set the date for congressional elections as the 1st Tuesday following the 1st Monday in November of every even-numbered year. The Presidential election is held on the same date, every 4th year.
- Congress has decreed the use of the secret ballot, allowed the use of voting machines, passed laws to protect the right to vote in federal elections, and prohibited various corrupt practices.

-When Elections Are Held

- Most states follow the “1st Tuesday following...” formula for state elections
- Some states choose their governor and other state offices on a different date

-Early Voting

- Most states allow absentee voting, which is voting for people who cannot get to their regular polling places on election day.
- This provision generally applies to the ill or disabled, those gone due to business, college, or vacation, and those in the armed forces.
- Another form of absentee voting is the early vote. Several states, including Texas, allow voters to vote prior to the actual election. In Texas, residents are allowed to cast early ballots from the time the early voting polls open until 17 days prior to the election.

-The Coattail Effect

- This occurs when a strong candidate running for office at the top of the ballot helps attract voters to their party candidates farther down the ballot. Strong candidates, such as Ronald Reagan, attract voters to his party’s other candidates.
- The reverse can also happen. If a candidate is particularly unpopular, it may push voters away from that party’s other candidates. Some instances of this occurred with Goldwater, McGovern, and Carter.
- Some people argue that the Presidential election and the other elections should be held at different times/dates to minimize the coattail effect.

B. Casting the Ballot

- The ballot is the device by which a voter registers their choice in an election.
- The Australian Ballot is a type of ballot which helps prevent corruption:
 - Printed at public expense
 - Lists the names of all candidates in an election
 - Given out at the polls only
 - One ballot to each registered voter
 - Marked in secret

C. Voting Machines & Other Innovations

- Voting machines first used in 1892
- Speeds process by doing away with manual vote counting
- Electronic vote counting, such as the use of punch-card ballots, was 1st used in the 1960s
- Vote-by-Mail elections were tried in 1977. There is great controversy about this method.
- Online voting has been tried in several states. The first online vote was in Texas in 1997 when an astronaut in space was allowed to vote online. The first state-wide election was tried by Arizona in 2000. There is still controversy about this method.

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Section 3: Money and the Election Process

Key Words: political action committee (PAC), subsidy, soft money, hard money

A. Campaign Spending Amounts

1. Observers estimate that about \$1.5 billion was spent on the 2000 presidential election. Information on the funding of Presidential elections may be obtained from the Federal Elections Commission (www.fec.gov).

2. Money is used for many purposes - staff and office costs, polling, television time, and so forth. By far the largest sum spent in political campaigns goes to buying television time.

B. Sources of Campaign Funding

1. Two sources: private contributors and public treasury. Recent campaign finance laws have had a significant impact on both of these sources.

2. Private and Public Sources:
 - Small Contributors: People who give \$5 or \$10 to candidates. Only about 10% of voting age people contribute to candidates.
 - Wealthy individuals and families: Called "fat cats". Often make large contributions.
 - Candidates: The candidates themselves often contribute their own money. Ross Perot spent over \$65 million of his own money in 1992 trying to be elected.
 - Various non-party groups, such as Political Action Committees (PACs): PACs are the political arms of special interest groups.
 - Temporary Organizations: Groups formed for one specific election or candidate.
 - Parties: Political parties help fund the campaigns of candidates at every level of the election process.
 - Subsidy: These are public subsidies from either national &/or state treasuries. There is a Presidential Campaign Fund that is funded by contributions given on people's income tax forms. Candidates who accept public subsidies are subject to limits on their total campaign spending.

C. Regulating Campaign Finance

1. The Federal Election Commission (FEC) - The FEC is an independent agency whose members set limits on campaign contributions and spending, require prompt disclosure of campaign finance data, and administer public funds for parts of the presidential election process. An important function of the FEC is to keep records of all significant campaign contributions to candidates for federal office. The Texas Ethics Commission is the counterpart in the State of Texas. Function of the FEC include:
 - a. require the timely disclosure of campaign finance date;

 - b. place limits on campaign contributions;

 - c. place limits on campaign expenditures, and

 - d. provide public funding for several parts of the presidential election process

2. Disclosure Requirements - Strict laws govern who can contribute to political campaigns, how much each person may give, and how campaign funds may be spent.

3. Limits on Contributions - Federal law limits contributions by individuals. Neither corporations, national banks, nor labor unions are allowed to make direct contributions to candidates for federal office. Foreign contributions to political campaigns are illegal also. Moreover, limits on campaign contributions have been imposed in order to curb the political influence of wealthy persons who are able to donate large amounts of money.

-Individuals are limited to :

- \$1000 per federal candidate in a primary election

- \$1000 limit to any federal candidate's general election fund

- \$5000 limit to a PAC

- \$20,000 limit to a political party

- Total contributions to federal candidates in any given election is limited to \$25,000

4. The Role of PACs - Political Action Committees (PACs) are special-interest groups that have a major stake in public policy. PACs, which have grown rapidly in recent years. In the 2000 election, PACs contributed over \$400 million to presidential and congressional campaigns.

-PAC contributions are limited to:

- \$5000 to any one federal candidate in an election

- \$10,000 to any one federal candidate in any election cycle (primary + general election)

- Up to \$15,000 per year to a political party

5. Limits on Expenditures - Federal law limits spending in presidential campaigns. *Buckley v. Valero*, 1976 U.S. Supreme Court decision striking down various provisions of campaign finance law on First Amendment grounds ("money is speech"). There are no spending limits if you do not take federal funds.

6. Public Funding of Presidential Campaigns - Monies for public funding of campaigns are contributed by individual citizens at income-tax time.

7. Preconvention Period - The FEC provides public funds to candidates by matching private, individual contributions. In 1992, limit of \$27.6 million. Very complicated formula.

8. National Conventions - Each party automatically receives a grant of public funds to pay for its national convention. Grants of \$13.5 million in 2000.

9. Presidential Campaigns - Major-party nominees automatically qualify for a public subsidy to cover campaign costs. In 2000, Gore and Bush each got \$67.6 million.

D. Loopholes in the Law

1. **Soft Money**: Soft money consists of contribution made to state and local party organizations for "party building". These contributions are unregulated by campaign finance law. Parties have found it easy to funnel this money in national presidential and congressional campaigns. Soft money contributions increased from \$19 million in 1980 to over \$500 million in 2000. **Hard money**, on the other hand, is campaign money that is regulated by the FEC.

2. **Independent Campaign Spending:** Any independent party, group, or individual that is not connected with a party and is running for election. They are allowed to spend any amount that they wish in any manner they wish. They are unregulated.

3. **Issue Ads:** Beginning in the Congressional campaigns of 1998, and in the Presidential campaign of 2000, issue ads became a controversial type of media advertising. Special interest groups run radio & TV ads that advocate a specific issue. These are usually very specific and tend to paint one candidate in a very poor manner. Because they never mention a candidate by name, they are not considered political ads by the FEC, and are unregulated. In the 2004 election, the use of these ads was very controversial. Several 527 Groups (Special interest groups registered with the FEC, but not connected with a political party) waged a media campaign that challenged Kerry's Vietnam service record. The ads were very derogatory, and although George Bush claimed he had no knowledge of these ads, he never denounced the ads in any way.