



Reading Assignments

Chapter 13:
The Federal
Bureaucracy:
Administering the
Government

Chapter 14:
The Federal Judicial
System: Applying the
Law

Supplemental Reading

See information below.

Learning Activities (Non-Graded)

See information below.

Key Terms

1. Appellate jurisdiction
2. Brief
3. Budgetary process
4. Bureaucracy
5. Bureaucratic accountability
6. Cabinet (executive) departments
7. Clientele groups
8. Concurring opinion
9. Independent agencies
10. Job specialization
11. Judicial activism/restraint
12. Judicial review

Learning Objectives

Upon completion of this unit, students should be able to:

1. Discuss the structure of the federal bureaucracy and how it developed.
2. Determine the method by which the federal budget is developed.
3. Explain how policy is carried out by the bureaucracy and the power possessed by the bureaucracy.
4. Examine the methods by which bureaucrats are held accountable for their actions.
5. Discuss the structure and responsibilities of the federal judicial system.
6. Elaborate on the process by which justices are appointed to federal courts.
7. Determine the legal and political influences on judicial decision making.
8. Discuss the extent of the judiciary's power in regards to policymaking.

Unit Lesson

Most of us do all that we can to stay as far away as possible from any government agency. Government agencies themselves really only get noticed when something big goes wrong. After Hurricane Katrina devastated the gulf coast of Mississippi and New Orleans (with New Orleans getting the worst of it), FEMA (Federal Emergency Management Agency) was supposed to step in and help. FEMA failed, however, do so and people were left to fend for themselves. Once this fact came to light, the head of FEMA was forced to resign. When a drilling rig in the Gulf of Mexico exploded killing workers and spilling oil into the water, and killing fish and wildlife up and down the Gulf of Mexico, it was determined that the MMS (Minerals Management Service) was not doing its job in regulating offshore drilling. The top management of this agency was forced to resign, and the agency was reorganized in the hopes that this would not happen again.

A country as large as the United States needs a bureaucracy to help run it even though bureaucracy itself creates problems. When a bureaucracy grows, it has a tendency to become insensitive to those it is supposed to help. In order for bureaucracy to function properly, there must be rules. However, in the end, the rules do not always allow for individual cases.

In the beginning, the federal government was small and in touch with what the people needed because those involved with the government also split time between taking care of home and taking care of government. By the end of the 1800s, politicians began to spend more and more time away from home taking care of the business of the government, and the federal bureaucracy began to grow. The first agency created was the Department of Agriculture in 1889, which was set up to help farmers. From there, agencies grew slowly until the 1930s and President Franklin Roosevelt's New Deal programs. The government saw another jump in growth in the 1960s with President Lyndon Johnson's "Great Society." Although it seems that the bureaucracy grows more and more each year, it has, in fact, stayed about the same for the last fifty

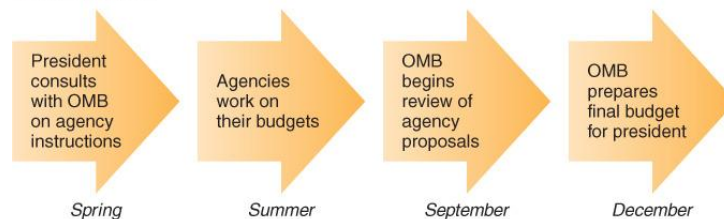
- 13. Living constitution theory
- 14. Merit (civil service) system
- 15. Writ of certiorari

years. There are essentially five forms of agencies found within the government: cabinet department, independent agency, regulatory agency, government corporation, or presidential commission.

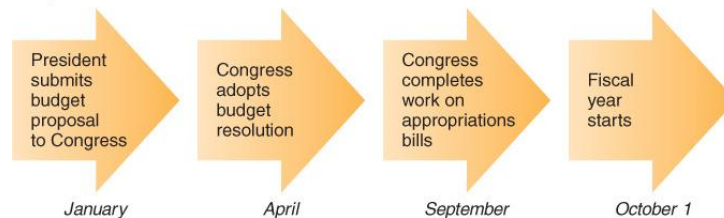
In 1881, President James A. Garfield was shot and killed by a disappointed office seeker. Garfield had only held the presidency for 200 days when he died from his wound. During that time, and during his time in Congress, he fought for civil service reform. In 1883, Congress enacted the Pendleton Civil Service Reform Act, which replaced the spoils and patronage systems with the merit system. Within the government bureaucracy, the merit system bases hiring and promotions on competitive examinations or special qualifications and not on whom you supported in the last political race.

All agencies live or die by their budgets. Without money, no agency program can exist, and only Congress has the right to tax and spend. The budgetary process lasts one and a half years. It starts in the spring with the Office of Management and Budget (OMB) and the president sending instructions to the various agencies. Each agency is given a spending ceiling that they cannot exceed. Agencies work through the summer, and in September submit their budget requests to the OMB for review and finalizing. The president then submits the budget proposal to Congress in January, and it is divided and sent to committee. By April, Congress should have adopted a budget resolution and

Executive Action



Congressional Action



pass Budgetary process (Patterson, 2012)

completed work on appropriations bills by September, in time for the president to sign or veto it (with the fiscal year starting on October 1st). If all does not go well and a budget is not passed, as has been the case in recent years, Congress must temporary funding in order

to keep up government operations.

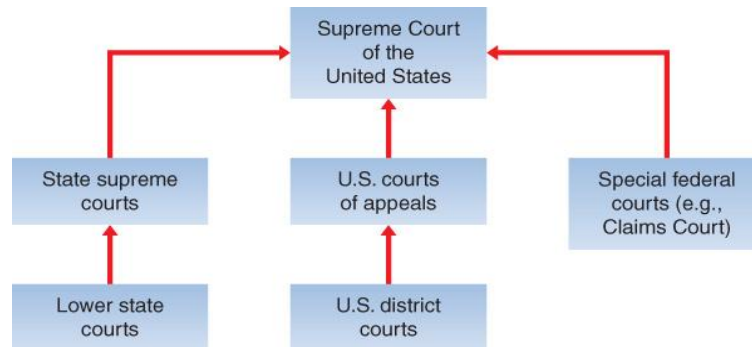
While bureaucracy is constrained by the budget, it gains power in the fact that it has broad discretion when deciding how to implement policy. Agencies gain power through their policies and must, in turn, play politics to protect these programs and their power. Clientele groups (those who benefit directly from an agency's programs) are more than willing to lobby on behalf of the agency during program or funding reviews. Most accountability for bureaucratic agencies is taken care of through the president, Congress, and the court system. Congress will, from time, to time put what is known as a "sunset provision" into legislation so that it will expire and not linger beyond its usefulness. The Patriot Act had many sunset provisions within it.

Federal courts have considerable power when ruling on the laws passed by Congress. When making rulings, the judiciary has considerable discretion, and is a political as well as legal institution. While the Constitution provides for the Supreme Court, it gives Congress the power to create all lower federal courts. The president nominates and appoints all federal judges, but they must first be

confirmed by the Senate. Once in office, they serve until they die or voluntarily retire. In extreme cases, they can be removed through impeachment.

The Supreme Court is the highest court in the United States. Congress sets the number of justices on the court, which is nine, one chief justice, and eight associate justices who each have the same voting power. The Supreme Court can hear a case through original jurisdiction (able to be the first court to hear a case) or appellate jurisdiction (ability to review cases that have already been tried in lower courts).

The Supreme Court only accepts around 100 cases a year to rule on. It uses these cases to set precedent for all lower courts to follow. Four of the justices must agree to hear a case before a writ of certiorari, or the request for the lower court to submit a record of the case, is requested. During the hearing, both sides present oral arguments lasting no more than thirty minutes each, and each side submits a written brief containing the full argument.



Federal Court structure (Patterson, 2012)

Once this is done, the justices gather and discuss the case and then vote on the case. Once a case is decided, the opinion is written. The vote on the case is not

considered final until the opinion explaining the legal basis for the decision is written and agreed upon.

Below the Supreme Court are ninety-four district courts and thirteen courts of appeals. Each state decides the structure of their own courts and how judges will be selected; 95% of all legal cases are decided in state and local courts and end there also.

The three main sources of law are the Constitution, legislative statutes, and legal precedents. The court system cannot issue a decision except in response to a case presented to it and must stay within the facts of the case. While the law is powerful in its ability to knock down laws passed by legislation it is bound by the law as well and must rule within it.

Click here the Supreme Court building.

http://supremecourt.c-span.org/Video/VirtualTour/SC_VT_SCLibrary.aspx to

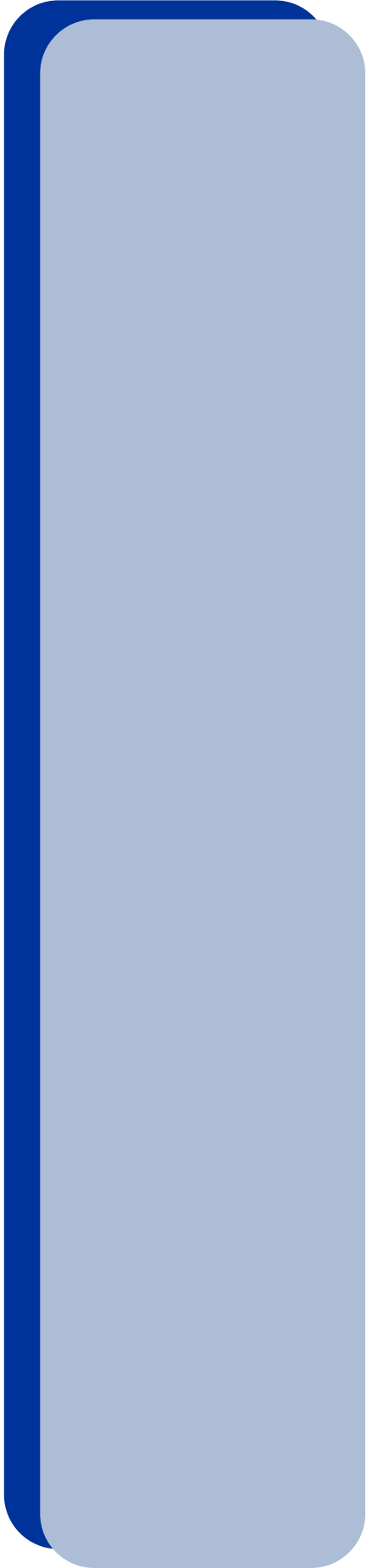
Reference

Patterson, T. (2013). *The American democracy* (11th ed.). New York, NY: McGraw-Hill, Inc.

Supplemental Reading

Click [here](#) to view a PDF of the Chapter 13 presentation.

Click [here](#) to view a PDF of the Chapter 14 presentation.



The White House: Office of Management and Budget
www.whitehouse.gov/omb/overview

National Debt Awareness Center (NDAC)
www.federalbudget.com

Supreme Court of the United States Blog
www.scotusblog.com/

The Case FOR Bureaucracy
www.governmentisgood.com/articles.php?aid=20

Learning Activities (Non-Graded)

Budget Puzzle: You fix the Budget
http://www.nytimes.com/interactive/2010/11/13/weekinreview/deficits-graphic.html?_r=0

Federal Budget Challenge
<http://federal.budgetchallenge.org/pages/overview>

NOTICE: These is a non-graded Learning Activities, so you do not have to submit it. If you experience difficulty in mastering any of the concepts, contact your instructor for additional information and guidance.