

CHAPTER 9

THE EXECUTIVE BRANCH AND THE FEDERAL BUREAUCRACY

<h3>Narrative Lecture Outline</h3>

The Roots and Development of the Federal Bureaucracy

Bureaucracy and bureaucrat are often tossed around like dirty words. These words seem to conjure up visions of slow, inept, gray, and faceless automatons that are avoiding work and responsibility. In fact, bureaucracies were developed in ancient China to rationalize the work of government, to make it more objective and less nepotistic, and bureaucracies were designed to ensure that someone was responsible for a specific issue area through specialization. So what happened? Did bureaucracy change or do Americans just have an extremely negative caricature in mind when they think of bureaucracies?

In order to come to a fuller understanding of the stereotypes about government workers and their validity, we must first understand what a bureaucracy is, how they operate, who staffs them, and why they exist. We also need a basic understanding of the historical roots of our bureaucracy. That is what we will do here today.

The text gives many definitions of bureaucracy including Max Weber's definition. The key factors are:

- an hierarchical chain of command
- division of labor and specialization
- clear lines of authority
- impersonal rules and merit based decision making

This definition makes bureaucracy sound good. It is rational and based on merit. It divides up tasks and has clear lines of authority, and therefore accountability. The hierarchy and chain of command insure that someone is ultimately responsible. So how has this definition played out historically?

In 1789, George Washington headed a federal bureaucracy of three departments: State, War, and Treasury. The head of each department came to be called a secretary. The government slowly grew as needs arose and demands were articulated. In general, the government grew most during crises and times of war.

The Civil War and the Growth of Government

The Civil War (1861-65) permanently changed the nature of the federal bureaucracy. Thousands of employees were added in order to mount the war effort. Poor harvests were a serious issue during the war—the troops must be fed—so Abraham Lincoln created the Department of Agriculture in 1862.

After the Civil War, demands continued to grow. The government needed to pay pensions to veterans and the injured from the war. Legal issues became pressing so the Justice Department was created.

The types and nature of government service were increasing, and resulted in a rise in federal employment. You also need to remember that the U.S. was becoming more “democratic.” From 1820 on, the electorate was expanding from white, male property owners to all white males and after the Civil War to black males (though this was short-lived and this group did not get full rights until the mid-1960s) and these newly enfranchised citizens were also making demands on government.

In addition to the war and increasing citizen demand for services, there was a good political reason for the expansion of the bureaucracy: politics. Government jobs were used by presidents and party leaders to reward electoral and financial support, so there were incentives for political leaders to expand public jobs.

From the Spoils System to the Merit System

From the 1830s until the 1880s, with a high water mark under Abraham Lincoln, public jobs came to be known as the “spoils of politics” hence the name “the spoils system.” The idea was that public jobs were the spoils for whomever won the election. So when one party won, the whole bureaucracy was fired and in came supporters of the winning party. By 1880, many were calling for a change. Government administration had become too political, had no job security, and people were not doing their jobs because they had no aptitude to do so, they were just someone's political friends.

Finally in 1883, Congress passed the Civil Service Reform Act, more commonly known as the Pendleton Act, in order to reduce patronage and build up a merit-based system of public jobs. The Act created the principle of federal employment based on open competitive exams and created a bipartisan Civil Service Commission to oversee the reforms. Initially, only 10 percent of federal jobs were covered by civil service; today, over 90 percent are. This system is known as the merit system.

This new system gives job security to federal employees because they cannot be fired due to election results or political whims. They can no longer be forced to donate money to a president's political campaign (in fact, under the Hatch Act they were prohibited from doing so). People are now hired because they are appropriate for a job and have the right skills. The downside is that perhaps civil servants today have too much job security. It is very difficult to fire someone from the government. Some bureaucrats do behave badly and thwart the will of Congress, the president, and/or the people. Some are rude and incompetent. However, most of today's 2.8 million federal employees are competent, caring individuals who do a good job. Can you think of some examples? Perhaps some of you have parents or friends who work for the government. How do they approach their jobs?

Regulating the Economy and the Growth of Government in the Twentieth Century

The country continued to expand. New territories became new states and the federal government continued to get bigger in response. The industrial revolution of the late 1800s brought big business into the picture—particularly big railroads—and price fixing, monopolies, and unfair business practices became a growing problem. In response, Congress created the first independent regulatory commission called the Interstate Commerce Commission (ICC). This signified a shift in the powers of government from service to regulation.

In 1900, Teddy Roosevelt asked Congress to create a Department of Commerce and Labor to oversee employer-employee relations due to intolerable labor practices like child labor, low wages, long hours, unsafe working conditions, and the refusal of employers to allow unions to protect employees. Woodrow Wilson later separated this department into two since it was difficult for one organization to represent both sets of interests.

The ratification of the Sixteenth Amendment in 1913 also caused the government to get larger (and in other ways allowed and encouraged the growth of government). The Sixteenth Amendment allowed the government to tax personal income. This infusion of funds made it easier to support new services, agencies, and programs.

Government was regulating business, but there were people who did not think that was the proper role of government even back in the 1800s. Some people followed a *laissez-faire* attitude toward business. (Remember this discussion back in chapter 1?)

FDR faced high unemployment and weak financial markets during the Great Depression. In order to face that crisis, he created large numbers of federal agencies and many federal programs. The alphabet soup he created (AAA, NIRA, CCC, and so on) was quickly passed by Congress, but stalled by the Supreme Court. In 1937, the Court argued that far-ranging authority to regulate the economy was beyond the purview of the president and Congress. The *laissez-faire* Supreme Court invalidated much of the New Deal. (This was also covered in chapters 3, 8, and 10.)

FDR was frustrated and proposed adding appointees to the Court to change the majority vote. This is often referred to as FDR's plan to pack the Court. The Court quickly changed its mind and began voting in favor of the New Deal programs.

WWII (like the Civil War and WWI) also caused the government to grow. Returning veterans demanded new services resulting in the GI Bill for education and the Veteran's Administration housing programs. The Civil Rights Movement and their demands also caused government to grow through agencies like the Equal Opportunity Employment Commission (EEOC) and the Department of Housing and Urban Development. These changes and more lead us to a discussion of the nature of the modern bureaucracy or what today's government is like.

The Modern Bureaucracy

Critics often complain that government is not run like a business. That is true and probably a good thing. Governments exist for the public good, not for profit. Government leaders are driven by reelection (and thus accountability) goals while businesspeople are out to increase their share prices on Wall Street. Businesses get money from customers, government gets it from taxpayers. Another big difference is that it is difficult to determine to whom bureaucrats are responsible: to the president? to Congress? to the people?

Who are the Bureaucrats?

There are 15 Cabinet-level departments in the federal government today. There are more than 60 government agencies and 2,000 other subunits of the U.S. government. There are about 2.7 million employees in the executive branch. Nearly 30 percent of those work in the Postal Service and 33 percent work for the Department of Defense.

The remaining workers are spread out among the rest of the governmental departments and agencies.

Most government employees are part of the civil service. That means they take a test and are hired, at least in part, based on their test scores. Mid and upper-level employees generally do not take a written test, but are subject to strict qualification guidelines.

Ten percent of the federal bureaucracy is not covered by civil service laws. These positions include: appointed positions—about 3000 people are appointed by the president some with the advice and consent of the Senate and senior presidential appointees then appoint the next tier of appointees; independent regulatory commissioners appointed by the president; low-level, non-patronage positions. The number of political appointees has grown dramatically under President Bush, from 1229 to 2000. There has also been a 50 percent drop in the number of minorities appointed and a 20 percent drop in the number of women.

Not all federal employees push paper. Some of the most highly skilled and efficient workers in the world work for the government from biochemists working in the National Institutes for Health to computer programmers in the Census Bureau, zoologists at the National Zoo, forest rangers, statisticians, and more. Federal employees are also a diverse lot basically representing the racial and ethnic composition of the population at large though women are less represented than men and often have lower-level positions under the proverbial “glass ceiling.”

Only 11 percent of federal workers work in Washington, D.C. (332,500). The rest are scattered in regional, state, and local offices throughout the country. Many government jobs are hard to fill, especially the ones requiring high skill levels since government doesn't pay as well as business.

The federal government also relies on hiring outside contractors for increasing numbers of jobs. This is a controversial practice that makes government look smaller than it is and may not always save the taxpayers' dollars.

Formal Organization

Agencies fall into four general types: Cabinet departments, government corporations, independent agencies, and regulatory commissions.

The Cabinet Departments

The 15 Cabinet departments are major administrative units that have responsibility for conducting broad areas of government operation. These positions account for 60 percent of the federal workforce.

Departments vary in prestige, power, size, and access to the president, but share a number of common attributes: each is headed by a secretary (except Justice which is headed by the Attorney General); secretaries are assisted by deputies and undersecretaries; departments are subdivided into functional units (legal services, budgets, public relations, and so on).

Government Corporations

Government corporations began in the 1930s. They are businesses created by Congress to perform functions that could be performed by private business but aren't

usually because they are not profitable. These corporations include Amtrak and the Tennessee Valley Authority.

Independent Executive Agencies

Independent executive agencies have narrower mandates than a Cabinet department. They generally perform a service function, not a regulatory one. Some examples include: CIA, NASA, and the EPA.

Independent Regulatory Commissions

IRCs exist to regulate a specific economic activity or interest such as the National Labor Relations Board or Securities and Exchange Commission. They are independent because once their membership is appointed by the president, they cannot be removed without cause. They also have staggered terms of office to ensure that no one party gets to appoint all members.

How the Bureaucracy Works

When Congress creates any kind of federal agency, department, or commission, it is actually delegating some part of its powers listed in Article I, section 8, of the U.S. Constitution. Congress sets parameters, guidelines, and then leaves it to the agency to work out the details. How agencies execute congressional wishes is called implementation.

Agencies, interest groups, and congressional committees often have stable relationships and patterns of interaction that are referred to as iron triangles. The various components of the iron triangle tend to be fairly autonomous and agree strongly on their goals. An example would be the AARP, the Social Security Administration, and the House Subcommittee on Aging. All would have similar types of interests and expertise. Employees or members of one might easily take a job or work in one of the other sides of the triangle and all would agree on the goals they should attain.

An issue network is a fuzzier arrangement. Basically, the groups working on specialized sets of issues tend to get to know one another through their mutual interests and this has an impact on policy making.

Making Policy

Administrative Discretion

In addition to making policy, bureaucracies also implement policy made by others. They take the laws made by Congress, the president, and courts and develop rules and procedures to make sure they are carried out. Since laws and regulations are often written in a vague way as the result of compromises during the policy-making process, there is often a lot of “wobble room” to decide what various passages mean. These choices are often called administrative discretion and allow the bureaucracy a lot of power over shaping policy. This power is also exercised through rule making and administrative adjudication.

Rule Making

Bureaucracies write regulations that have the force of law. All such rules are printed in the *Federal Register*. They take effect 30 days after printing. Many rules are written only after formal hearings and discussion.

Administrative Adjudication

Administrative adjudication is a quasi-judicial function in which the agency forces compliance with rules through a type of trial.

Making Agencies Accountable

The big question remains: Is the bureaucracy accountable and if so to whom? They are created by Congress, appointed by the president, funded by Congress, governed by the president, paid for by the taxpayer....

Executive Control

The president has the authority to:

- appoint and remove agency heads
- reorganize the bureaucracy
- make changes in budget proposals
- ignore initiatives from the bureaucracy
- issue executive orders
- reduce an agency's budget

Congressional Control

Congress has the authority to:

- pass legislation that alters an agency's functions
- abolish existing programs
- investigate bureaucratic activities
- influence presidential appointments
- write legislation to limit bureaucratic discretion
- limit the use of funds or reduce appropriations to the agency

Judicial Control

The judiciary has the power to:

- rule on whether the bureaucracy has acted within the law
- rule on constitutionality
- force respect for the rights of individuals through hearings

Hence, the bureaucracy is subject to significant oversight. It is shrinking in size. A large and diverse number of people work for the government, mainly outside of the capital city of Washington, D.C. Is it a nightmare? Is it necessary? Is it something else? What do you think?