

**FUTUREtakes**

Transcultural Futurist Magazine

ISSN 1554-7744

## **Vol. 4, no. 1 (Spring 2005)**

**From our new luncheon program series!**

### **Downsizing Democracy: How America Sidelined Its Citizens and Privatized Its Public**

*Synopsis of the February 2005 WFS Washington DC Chapter lunch program presented by Matthew A. Crenson and Benjamin Ginsberg, professors of political science, Johns Hopkins University; summarized by Tommy Osborne*

In “Downsizing Democracy,” a program co-sponsored by the **Woodrow Wilson International Center for Scholars**, Matthew A. Crenson and Benjamin Ginsberg describe how the powerful idea of a collective citizenry has given way to a concept of personal, autonomous democracy, in which political change is effected through litigation, lobbying, and term limits, rather than through active participation in the political process. Mandatory taxes have replaced bonds as a means to fund military operations, career civil servants have replaced volunteers in the allocation of public services, and an elite, professional soldier has replaced the citizen-soldier. In the closing decade of the last century, this trend only intensified as the federal government, taking a cue from business management practices, rethought its relationship to its citizens as one of a provider of goods and services to individual “customers.” The authors discussed these ideas both from a historical perspective and in light of the recent elections. Their new book, *On to the White House – Presidential Power and the Decline of Democracy, Ha, Ha, Ha!*, a sequel to Downsizing Democracy, was also a source for much of the discussion.

#### **CITIZENS, PARTIES, AND PARTICIPATION**

There is unprecedented access to the political process – through the initiative and referendum, public hearings, enhanced access to the courts, and direct election of Senators – so, why aren’t more people participating? Educational attainment is a good indicator of political involvement, more people are educated, so why are more people not involved in the direct political process of selecting candidates, funding and electing them through political parties? Is it because people are disgusted with government, or not interested? Or, are there other explanations?

The speakers provide other explanations. People don’t have to join broad alliances (political parties) to participate in the political process. They can concentrate on their areas of personal interest, on an individual basis. Since the 1960s, there has been an explosion of advocacy in Washington DC, in the form of lobbyists, but no comparable increase in citizen participation in political parties was noted.

Citizens are more likely to participate by proxy, that is, by contributing funds. This support for advocacy groups can be interpreted as political involvement through multiple avenues of access to government. This works best when groups can get what they want without mass mobilization of others.

The more struggle and competition among political leaders and parties – the more people turn out as voters and campaign workers. For example, in 2000, the election was close, but the turnout was 51% of the population plus (by the speakers’ account) the nine Justices of the Supreme Court. In 2004, the turnout was just under 60% – the highest since 1968. Even the impeachment scandal of 1998 did not lead to high percentage voter turnout. So the lack of difference between parties may contribute to the malaise.

Another reason for decreased direct party participation is the increase in related but non-party organizations, the so-called 527s.

## THE PARADOX OF PRESIDENTIAL POWER

Referencing their new book, *On to the White House*, the authors reported that almost all recent Presidents suffered political damage – Vietnam, Watergate, the Ayatollah, the Iran-Contra scandal, and Monica Lewinsky and the missing WMD/Abu Gharib double failures. Even so, the power of the Presidency continues to be enhanced.

The apparent contradiction of a damaged presidency gaining more power could be a result of the withdrawal of the general citizenry from politics. But as the speakers indicated, there are other factors, self-driven – not party-driven – ambition to become President, the development of institutions to support the President, and the removal or reduction of obstacles. This removal and reduction of obstacles involves workarounds to bills, Congressional reform, and the judiciary’s siding with the Executive Branch.

Presidential candidates are less dependent on their political parties. Now you need a campaign organization independent of your party, the speakers assert. So to run for President, either you need to have a desire to make history, or you need the support of a number of powerful interests, to which you become indebted.

As an example of how presidential support institutions developed, Crenson and Ginsberg cited the 1921 creation by Congress of the Bureau of Management and Budget (forerunner of the present Office of Management and Budget, or OMB) and its placement of the BMB in the Treasury Department to keep it from Presidential control. Later, President Franklin D. Roosevelt (FDR) created the Executive Office of the President and moved the BMB to it. A standoff resulted. FDR asserted that he could move the office but that Congress could pass a law to undo the move. However, this would have required a 2/3 vote, since FDR would have been sure to veto such a law. More recently, the Office of Information and Regulatory Assessment (OIRA) was created within the OMB. Now, the OIRA, not Congress, is responsible for regulatory clearance. Beginning with Clinton, who began issuing regulatory prompts – now regulatory directives – Presidents, not Congress, are writing the basic guidance that becomes regulations.

These days, fewer bills on the Hill have Presidential support or opposition. Instead, the decades-old process of Executive Order continues. Once an Executive Order is issued, it can be struck down only by a court decision or by an Act of Congress. As another example, Congress and the President vied for control of the military prior to 1948, and inter-service rivalry played into the hands of Congress. The formation of the Department of Defense led to centralization of control over the military services and rendered the military less susceptible to the wishes of Congress, thereby diminishing the Congressional role.

## **OBSTACLE REMOVAL**

One workaround to Congress is annotations on bills passed. At one time, Presidents wrote messages on bills they vetoed, indicating the reasons for their vetoes. Now, they also write messages on bills that they sign, and in these messages they state their objectives, including portions they will not enforce. The messages become parts of the legislative history of the bill and thus open to judicial interpretation. In response, Congress began requiring notification of all provisions not enforced if they were believed unconstitutional.

When Congress passed laws to limit secret Executive decisions, Presidents worked around the laws by changing their “decisions” to “National Security Directives.” Conversely, the speakers proclaim, Congress can’t make decisions in secret, or even if it could, the secret would be out once there were any attempt to implement or enforce the decision

In addition, Congress itself has changed. Under the old system, the House of Representatives was hierarchical, and throughout much of the 19<sup>th</sup> century, the Speaker was more important than the President. When President Polk wanted to go to war against Mexico, Congress supported him but wanted to make sure he understood who was boss. Polk asserted that an incursion had occurred and acted unilaterally, whereupon Congress declared war only after first “beating up” on Polk.

The decline of political machines (as a result of progressive reforms) undermined the cohesiveness of the House. Today, there is philosophical cohesion but little organizational cohesion. Each member can vote what is best for his/her constituency [but the committee structure still allows the party bosses to force voting along party lines – so there is still some effective hierarchy – Osborne]. The House can’t effectively stand up to the President as in the 19<sup>th</sup> Century. At the speakers stated, perhaps the preeminence of the Presidency is best demonstrated by the fact that there has been no declaration of war since December 8, 1941.

For its part, the judiciary has also contributed to the increase in Presidential power. In the 19<sup>th</sup> century, the Federal courts deferred to Congress. In the 20<sup>th</sup> century, courts actively struck down some acts of Congress. Today, courts rarely challenge the Executive Branch. Only a handful of Executive Orders have been struck down, and even then, court action often provides a basis for increasing rather than limiting Presidential power. There are three cases: Congress says no, Congress says yes, and the “twilight zone.” Now the courts say that if Congress did not specifically prohibit something, it is probably permitted. Even when the Executive Branch loses in court they win: an example being the US vs. Nixon. In the end, Nixon had to turn over the tapes, but the Supreme Court also upheld the principle of Executive Privilege. Today, that principle is invoked by Presidents and others in the Executive Office who do not tape themselves, as in the case of Vice President Cheney’s meetings with energy company executives.

The speakers noted that at one time, most judges had served in a legislative body. Today that number is less than 4 %. This may drive some of their lack of support for the legislature.

## **WITHER NOW?**

At one time, the parties once dominated the Presidency and solidified Congress. Now they don’t. The downturn in popular involvement bodes well for the President, who is elected for a maximum of two four-year terms – and ill for the Congress, whose members are always scrambling for reelection. Congress has two alternative futures. In one, legislatures prosper because of significant participation by the people. In the other alternative future, the Executive Branch dominates.

“Presidentialists” assert that a powerful Presidency is good because (1) the nation needs someone who can act decisively and quickly in an emergency in this rapidly changing, dangerous world, (2) a President is better able than Congress to represent the broad public interests, and (3) the President is more “democratic” since he is elected by millions of voters, whereas some members of Congress are elected by a handful of voters in “safe districts.” Countered the speakers, Presidents can create emergencies (e.g., Clinton’s environmental agenda and the present stem cell research controversy) – in “response” to which they issue Executive Orders – and the President represents only one vision as opposed to broad public interests.

### **POST-PROGRAM COMMENTS (as best captured)**

The question and answer session raised related challenges such as gubernatorial power versus state legislatures (governors are the more powerful, one reason being that in many states, legislators are part-timers and amateurs) and whether Congress lost the tug of war by failing to deal with pressing national 19<sup>th</sup> Century problems, (e.g. slavery), which the President solved.

Several factors point to a stronger Presidency in the future – weakened political parties, the trend in judicial decisions, and the continuing desire for Executive power. In addition, the House and Senate desire a weak Congress so they don’t have to bear responsibility for politically unpopular decisions.

The growth of the Presidency contributes to downsizing democracy, and a less involved populace lead to a more empowered Executive – a vicious circle, concluded the speakers.

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### **POINTS FOR THE CLASSROOM** (send comments to [forum@futuretakes.org](mailto:forum@futuretakes.org)):

- *What will the relationship between governments and their citizens be in 2020?*
- *How relevant will governments be, relative to multinational corporations and other non-governmental organizations (trans-national ethnic groups, cause-oriented groups, etc.)?*
- *How will the information age impact political parties, citizen participation in government, and the balance of power between the Executive and Legislative Branches of government?*
- *What other factors may account for voter apathy? A perceived lack of choices (differences among candidates or parties)? Higher priorities, coupled with limited time? A perception that political parties and candidates are not addressing the issues that are most important to them, e.g., “making ends meet” or “having enough hours in the day”? Or, is voter apathy a characteristic of a mature democracy?*
- *What eventually yields between voter apathy and the highly polarized US electorate? Also, will the trend toward “sound byte politics” be reversed?*

- *Given that many Members of Congress prefer a weak Congress so that they can avoid responsibility for unpopular decisions, what kinds of people will be attracted to serve in Congress in 2015 and beyond?*
- *Finally, what other factors will impact the relevance of political parties and the balance of power among branches of government, both in the US and in other nations, and what will the impact be?*