

**American Politics
Preliminary Examination
Spring 2003**

RULES AND DIRECTIONS: You will have eight hours in which to answer the required questions. **The exam must be handed in no later than 4:00 p.m.** Be sure to save some of your time for putting your answers into an organized, typed or legibly written version in good English. Also be sure that you answer all the parts of each question and that you refer to the appropriate scholarly literature in each answer. This is a “closed book” exam. Students may not use notes or books, nor may they discuss the examination with anyone while taking it.

Instructions: Please answer one question from Part I and two questions from Part II. Be careful to write three distinct essays, avoiding substantial overlap between your answers.

PART ONE: THEMATIC QUESTIONS

Please write on one (1) thematic question:

1. The Founding Fathers developed a republican form of government, one in which designated representatives serve on behalf of the general population. Given what political scientists know about representation, how well do you think our current system lives up to this principle? In framing your answer, you might consider a variety of issues: How well do the executive and Congress serve public preferences? Does the proliferation of interest groups promote representation of popular views, and does the apparent decline in the significance of partisanship detract from it? How do the nature and level of political participation serve popular representation? Does the reliance upon “less democratic” decision-makers (e.g., courts, bureaucracies) produce greater or less service to the public will? Discuss as many of these issues as you feel are necessary to make your case, and be sure to bring scholarly evidence to bear upon your argument.
2. The popularity of decision-making models or paradigms taken from economics (e.g., public choice, rational choice, etc.) have left few areas of scholarship in American politics untouched. They have, however, influenced some areas or sub-fields more than others. What do you see as their intellectual strengths, and why has their influence varied among subfields? What models or paradigms do you see as alternatives to those from economics, and what do you think their strengths, their usefulness, and their prospects are now?
3. Compare and contrast two of the following approaches to the study of political behavior and institutions: political psychology, political socialization, social choice, political culture, social systems, historical institutional analysis, and political context analysis. Identify and evaluate the strengths and weaknesses of each of the two approaches you select, and speculate about strategies to integrate them.

PART TWO: SEMINAR QUESTIONS

*Part II. Answer two of the following eight questions. You may answer any combination of two of the 8 questions except the following: you may **not** answer 1 and 2; 3 and 4; 5 and 6; or 7 and 8.*

1. There has been a significant amount of disagreement over how Supreme Court justices reach decisions. Some scholars have argued that justices base their decisions on a set of principles (precedent, intent of framers, etc.) that help to guide them in interpreting the Constitution and arriving at outcomes. In contrast to this legal school of thought, others have asserted that the view of justices as principled decision-makers is completely inaccurate. They argue that personal policy preferences largely determine how the justices decide cases. Still others argue that justices are strategic actors whose decisions are based on their policy goals, their beliefs about other actors' preferences, and institutional rules. First, explain each of these theories in detail, assessing the merits and shortfalls of each (be sure to cite relevant literature for each theory). Second, make an argument about which theory offers the best explanation of how justices decide, as well as which is best for making predictions about their future behavior.
2. Even before *Bush v. Gore* (2000), the Supreme Court played an integral role in the 2000 presidential campaign. Indeed, both candidates warned that the other would pack the Court with extremists who would make bad decisions concerning abortion, states rights, civil rights, and the like. As such, both major party candidates declared that they would put the right type of justices on the Court. This begs the question: how does the president decide whom to nominate to the Supreme Court? Using relevant literature, first explain the nomination process, and what factors president invokes when decided who to nominate. Second, explain the confirmation process and the factors that the Senate considers when deciding whether to accept a nominee. Can the president nominate anyone he sees fit, or is he constrained in his choices? Why or why not? Which has more power over the confirmation process: the Senate or the president? Why?
3. John Ely titles one of the chapters of Democracy and Distrust "the impossibility of a clause-bound interpretivism." What does he mean? Is he correct? Discuss with reference to Ely and at least one other jurisprudential theorist. In your answer also discuss at least two concrete constitutional issues.
4. Select a jurisprudential theorist or a Supreme Court Justice who, in your opinion, has a good understanding of the nature of American democracy. Explain the reasons for your choice. If there is no one who fits this bill, explain why this might be, and what this tells us.

5. Since Alexander Bickel first articulated it in 1962, many have argued that the exercise of judicial review poses a serious “anti-majoritarian difficulty” for the U.S. Supreme Court. Is this true? Is there an inherent tension between judicial review and democratic rule? Please use specific cases to illustrate your answer, making reference to appropriate scholarly sources.

6. Many scholars have critiqued the Supreme Court’s reliance on the Due Process Clause of the 14th Amendment as the primary constitutional support for unenumerated rights in the U.S. Constitution. After briefly explaining why the Court seems to have taken this route, please discuss what you believe to be the most important critiques of the Court’s reliance on the Due Process Clause. Are there alternatives that the Court might pursue? What would be the strengths and weaknesses of these alternatives?

7. The American Judicial system has recently been assailed as bankrupt and faulty. Based on your reading and knowledge assess that claim with respect to
 - A. criminal law, the death penalty cases, drug and race issues, class, and criminal cases
 - B. bringing a civil case into court and hiring a lawyer, especially in comparison to ease or difficulty in other systems
 - C. delay and expense in trying a case and the effects of discovery and other relatively new procedures
 - D. litigation as a form of social policy formation, including the use of class actions

Do you accept the Kagan/Moe notion that this growing use is a product of a weak regulatory system, or is it a product of some other factors (constitutional imperatives for example).

8. The Grossman-Vaughn companion to *A Civil Action* gives an in-depth analysis of complex civil procedures in America. *Drawing on your knowledge of literature in the field as well* comment on the following:
 - A. After reading it, do you emerge with more or less respect for the system?
 - B. How open is the system to the underdog?
 - C. Should courts be as open to litigating new scientific theories and facts as opposed to dealing with rules and entitlements?
 - D. Who controls class actions, clients or lawyers?
 - E. Do judges influence jury trials?
 - F. Are our trials too expensive?
 - G. Was the case typical or atypical of most American litigation?