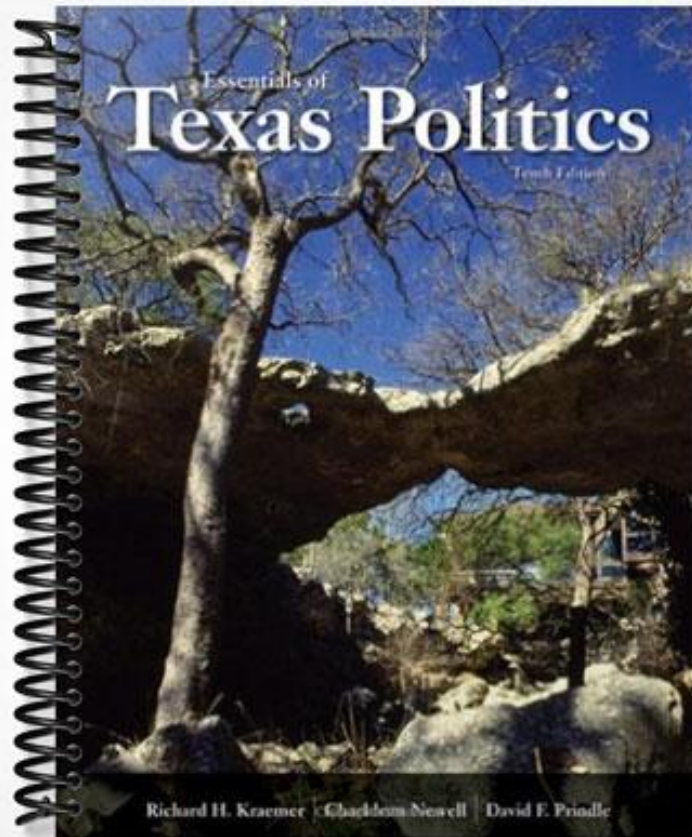


SOLUTIONS MANUAL



CHAPTER 1

THE CONTEXT OF TEXAS POLITICS

MULTI-MEDIA RESOURCE GUIDE

Web Page

academic.cengage.com/polisci/Kraemer/TexasPolitics10e

INFOTRAC College Edition

<http://www.infotrac-college.com/wadsworth+password>

Key Words for *Infotrac* Research: census, conservatism, democracy, demographics, federalism, laissez-faire, liberalism, legitimacy, political culture, social Darwinism.

Videos

ABC Texas Political Theatre, DVD ISBN: 0495103950, VHS ISBN: 0495103942

4. Immigration: President Bush meets with border patrol agents and pledges to defend the border. Despite strong opposition from conservative groups, Bush and a coalition of business groups and Democrats have promised to enact a “guest-worker” program that has been described by opponents as amnesty. 3 minutes.
7. Populism: During an interview, Kinky Friedman, an unsuccessful candidate for governor in 2006, discusses unusual political stances, his friendship with President Bush, and his attempt to challenge the two-party system. 17 minutes.

Lone Star: Living the Legend, Based on the book by T.R. Fehrenbach. Hosted by Larry Hagman. The first of an eight-part video series. Living the Legend is a sixty minute video that gives an overview of Texas History, people and culture. Corpus Christi, Texas: KEDT-TV, 1986.

Print Resources

Elazar, Daniel J. *American Federalism: A View from the States*. 2nd ed. New York: Thomas Y. Crowell Company, 1972.

Elazar’s work provides the foundation for any discussion of political culture.

Green, George Norris. *The Establishment in Texas Politics: The Primitive Years, 1938-1957*. Westport, Conn.: Greenwood Press, 1979.

In this carefully researched and well-written work, Green examines the period in Texas history in which corporate interests (the Establishment) came to dominate state politics.

Nackman, Mark E. *A Nation Within a Nation: The Rise of Texas Nationalism*. Port Washington, N.Y.: Kennikat Press, 1975.

Texas in the period from 1821 to 1861 provides a case study of the development of nationalism in this interesting volume. According to Nackman, Texas provided a refuge for pariahs who, with the independence of the Republic, became fiercely loyal to their new nation.

Richardson, Rupert N., Ernest Wallace, and Adrian Anderson. *Texas: The Lone Star State*. 5th ed. Englewood Cliffs, NJ: Prentice Hall, 1988.

This venerable text on Texas history provides an excellent alternative or, better yet, supplement to T. R. Fehrenbach's *Lone Star: A History of Texas and the Texans*.

U.S. Bureau of the Census. *County and City Data Book, 1994*. 12th ed. Washington: Government Printing Office, 1994.

As with most other Census Bureau publications, the *County and City Data Book* contains a mind-boggling array of authoritative statistics. Data currently maintained at the Census Bureau web site at www.census.gov.

_____. *State Government Finances: 1992*. Washington: U.S. Department of Commerce, October 1993.

This publication provides a variety of tables comparing state government revenues, expenditures, indebtedness, and other aspects of state government finances. Later years may be accessed on-line at www.census.gov/govs/www/state.html.

_____. *Statistical Abstract of the United States: 2000*. 120th ed. Washington: Government Printing Office, 2000.

Those not already familiar with the Census Bureau's annual *Statistical Abstract*--one of the Government Printing Office's best selling publications--will find it to be an extraordinarily rich source of data both for the United States as a whole and for individual states.

CHAPTER OUTLINE

- I. Introduction
- II. Texas History: A Chronology
 - a) The Earliest Days
 - i) Texas has existed under the flags of Spain, France, Mexico, the Republic (and state) of Texas, the Confederacy, and the United States.
 - ii) What is now Texas was inhabited by as many as 130,000 Native Americans of various tribes at the time of the first European exploration.
 - iii) With the establishment of a series of missions beginning in 1690, Spain's influence came to be spread across South Texas.
 - iv) Mexico's achievement of independence from Spain in 1821 led to a period of anarchy in Texas.
 - v) Although the numbers of Spaniards and Mexicans who settled in Texas before 1821 were small, they left rich influences.
 - b) Anglo-American Colonization
 - i) The Mexican government, hoping Anglo settlers lured by free land would support its interests against the U.S., gave Stephen F. Austin a land grant and permission to settle 300 families in Texas.
 - ii) As the number of colonies in Texas grew, settlers became increasingly alienated from Mexico as a result of cultural and political differences.
 - c) Revolution
 - i) Fearing further Anglo-American settlement, the Mexican government clamped down, prompting demands for concessions from the settlers.
 - ii) A brief revolution, marked by the battle of the Alamo and, later, a final victory at San Jacinto, secured independence for Texas.
 - iii) Texas grew rapidly following the war, but independence brought many problems that bolstered sentiment for annexation by the U.S.
 - iv) On December 29, 1845, Texas voluntarily gave up its sovereignty and joined the Union as the twenty-eighth state.
 - d) Early Statehood
 - i) The Mexican-American War, triggered by Texas's entry into the Union, forced Mexico to relinquish its claim to Texas.

- ii) Because Texas was a slave state, its annexation was supported by the slave states and opposed by the states where slavery was illegal.
- iii) Although there were no political parties in the Republic of Texas, debate generally divided along pro- and anti-Houston lines and most Texans identified with the national Democrats' views.
- iv) Fearful of the implications of Abraham Lincoln's election to the presidency, Texas and other Southern states seceded from the Union in 1861.
- v) The industrial North ground down the agricultural South's ability to wage war over four years and the Confederacy fell apart in the spring of 1865.
- vi) In an event still celebrated as "Juneteenth," federal troops landed at Galveston and declared the emancipation of all slaves in Texas on June 19, 1865.
- e) Post-Civil War Texas
 - i) Efforts in Texas and throughout the South to obstruct national policy after the war strengthened the position of the Radical Republicans in Congress and led to the imposition of military rule.
 - ii) African American support for Republicans reinforced existing White support for Democrats and gave rise to the Ku Klux Klan with its use of intimidation and violence to keep Blacks in a position of inferiority.
 - iii) E. J. Davis, Republican governor from 1870 to 1874, used the substantial powers given his office by the Constitution of 1869 and angered most White Texans by implementing policies consistent with those of the Radical Republicans in Washington.
 - iv) Davis's initial refusal to vacate the office following his defeat at the hands of Democrat Richard Coke in the gubernatorial election of 1873 added to the mistrust of Republicans that his administration engendered among Texans.
 - v) In 1876, after Democrats regained control of the state government, a constitution representing a return to the traditional principles of the Jeffersonian Democrats was adopted.
- f) The Late Nineteenth Century
 - i) The Texas economy, based primarily on cotton production, recovered quickly after the Civil War.
 - ii) To fill the need for additional transportation, the state legislature gave millions of acres of land to the railroads, thus establishing a close relationship between the state government and large corporations.
 - iii) Thousands of miles of railroad track were laid in the late 1800s.
 - iv) Violence against African Americans, much of which was led by the Ku Klux Klan, was a major problem for Texas in the years following Reconstruction.
 - v) Although conservative Democrats controlled state government at the end of the century, their rule was challenged by other parties and interest groups.
 - (1) Labor unions organized but were severely limited by state actions.
 - (2) Because many farmers in Texas were tenant farmers faced with serious economic problems, the agrarian movement drew considerable support and Grangers played a significant role in the drafting of the Constitution of 1876.
 - (3) The People's, or **Populist**, party also challenged Democratic dominance for a time and, although its political strength waned after 1896, populism remains an influential element in Texas.
 - vi) In the 1890s, Governor Hogg's administration initiated many agrarian reforms, but changes in the membership of the legislature gradually brought the reform era to a close.
- g) The Early Twentieth Century
 - i) Major oil discoveries in 1901 and in 1930 made Texas the world's leading oil producer and provided an important source of jobs and tax revenues for the state.
 - ii) One expression of the state's Populist tradition is its ambivalent relationship with the major corporations in the oil industry as exemplified by the anti-trust actions of the early 1900s.
 - iii) Much progressive legislation was passed during this period, but the poll tax and "White primary," which greatly reduced African American voter turnout in particular, ran counter to the progressive spirit.
 - iv) Inefficient oil and gas production practices and the clear-cutting of millions of acres of East Texas pine forests reflected an indifferent attitude toward resource conservation that in some measure still exists in the state.
- h) Wars and Depression

- i) World War I brought major changes to Texas as the state became an important military training base and large numbers volunteered for military service.
 - ii) In the early 1920s, the influence of the Ku Klux Klan flourished in both local and state politics.
 - iii) Texas voted Republican in the presidential election of 1928, rejecting Democrat Alfred Smith, a New Yorker, a Roman Catholic, and an anti-prohibitionist.
 - iv) Although the Great Depression was less severe in Texas than in more industrialized states, in part because of the major oil discovery in East Texas in 1930, Texas did have problems associated with low prices and overproduction in the oil industry.
 - (1) Regulation of oil production by the Texas Railroad Commission and the enactment of a "Hot Oil Act" by Congress restored stability and profitability, at least for the major oil companies.
 - (2) For four decades, the Railroad Commission's regulation of oil production exerted a powerful effect on the world price of oil.
 - v) Although the growth of the oil industry mitigated the effects of the Depression, Texas did suffer large-scale unemployment, bank failures, and other problems.
 - vi) Economic relief for the many Texans affected by the Depression came not from the state but from the federal government, which poured more than \$1.5 billion into Texas in various programs.
 - vii) On the verge of becoming a major industrial state before World War II began, Texas again contributed greatly to the national war effort.
 - i) Shivercrats and Segregation
 - i) During the 1940s, Texas became increasingly urbanized and industrialized.
 - ii) In 1948, the tradition of "colorful" Texas politics was continued as Lyndon Johnson won a U.S. Senate seat by 87 votes.
 - iii) Conservative Democrats increasingly dominated Texas politics after the war with millions of dollars in school funds spent to delay the *Brown v. Board of Education* (1954) U.S. Supreme Court decision, which declared segregation unconstitutional.
 - iv) The influx of immigrants after World War II increased the state's cultural diversity.
 - j) Gradual Political Change
 - i) Texas, since the 1950s, has become more diverse politically with Republicans and liberal Democrats managing to win statewide office.
 - ii) Minority group candidates have enjoyed increasing success, especially after the passage of the **1965 Voting Rights Act** and U.S. Senator Kay Bailey Hutchison broke the gender barrier.
 - k) Contemporary Texas
 - i) Texas enjoyed a period of good times in the 1970s as the OPEC boycott and the onset of energy shortages caused major increases in the price of oil.
 - ii) In the 1980s, a market glut dropped oil prices and plunged the state's economy into a recession marked by the end of the decade by massive bank failures and property foreclosures.
 - iii) As the crime rate shot up, particularly crimes related to property, Texans insisted on better law enforcement and longer sentences for convicted criminals.
 - iv) The combination of a declining revenue base and an increasing demand for better services necessitated large tax increases in 1984, 1986, and 1987, which, given the state's reliance on sales taxes, made the tax system in Texas even more regressive.
 - v) The situation reversed itself again in the 1990s as new industries began to replace the declining oil industry as sources of prosperity for the state.
 - vi) By the end of the century Texas had the eleventh largest economy in the world and more Texans were employed in high-tech industries than by the oil industry.
 - vii) In 1994, Texas passed New York as the second most populous state in the country.
 - viii) In 2001 economic recession and terrorism were added to the old problems of poverty and drugs to create a new era on Texas politics.
 - ix) Whether its traditional political attitudes are capable of dealing with the challenges of the new era is open to question.

III. Texas as a Democracy

- a) Defining Democracy
 - i) In a democracy, the people's participation establishes the legitimacy of the government.
 - ii) Because the people make the laws, they are morally obligated to obey them.

- iii) Free elections are necessary to insure majority rule, but certain rights must be preserved for minorities.
 - b) The Ideal and the Reality in Texas
 - i) No democratic political systems are perfect; some are well-run and government policy is arrived at through public participation, debate, and compromise, while others are badly run and characterized by mass apathy and private influence.
 - ii) The great majority of Americans believe in some version of the theory of democracy even without being able to state it clearly.
 - iii) Given this fact, we may judge state government against the ideal of a democratic society in order to determine whether Texas approximate the ideal of a democratic polity.
 - iv) One major problem for democracy is the influence of private interests over public policy.
- IV. Texas and American Federalism (p. 18)
- a) Defining the Federal System
 - i) In a federal system governmental powers are shared among the national and state governments.
 - ii) As an example of the influence all three branches of the national government have on states, education, although primarily the responsibility of state government, is affected by laws passed by Congress, Supreme Court rulings, and presidential decisions.
 - b) The Impact of the Federal Government on Texas Government
 - i) A significant portion of state revenue comes from federal grants.
 - ii) Historically, the Supreme Court has altered the state's behavior in many instances, especially in regard to civil rights and liberties.
 - iii) Congress allocates many of the amenities of government that effect the state's economy.
 - iv) Congressional mandates force the Texas legislature to raise and spend money.
 - v) Texans fight and die in foreign wars entered into by the federal government and the war on terrorism has imposed new burdens on Texans.
 - vi) The president's discretionary powers, such as cutting tariffs or releasing federal disaster relief funds, may affect the state's economy.
 - vii) Federal Reserve Board action may constrict or stimulate the economy, thereby affecting both state revenues and demands on the state.
- V. Texas in the International Arena
- a) Texas Common Border with Mexico
 - i) Although the U.S. Constitution forbids individual states to conduct foreign policy, Texas' shared border with Mexico has had an impact on the Texas economy and Texas politics.
 - ii) Areas of conflict and cooperation include the use of water, international trade, and criminal justice.
 - iii). The political choices of Texas politicians have consequences far beyond their own government.
- VI. The Texas Political Culture
- a) The Concept of **Political Culture**
 - i) Political culture is a shared framework of values, beliefs, and habits of behavior in regard to government and politics.
 - ii) Texas political culture is distinctive for a variety of reasons.
 - (1) The state's great size and its relative geographic isolation until the 20th century are important factors.
 - (2) Texas was an independent republic before joining the United States.
 - (3) Its mixture of the Old South and the West of the frontier contribute to the state's distinctiveness.
 - iii) The experience, shared with other Southern states, of slavery, defeat in a civil war and postwar occupation, and denying African Americans full citizenship undergird the state's conservative political culture.
 - iv) Reinforcing the state's southern cultural conservatism is an extreme individualism derived from the myth of the frontier.
 - v) Based on the cultural patterns of the fifty states identified by Daniel Elazar, Texas is located at a midpoint between traditionalist and individualist political cultures.

- vi) Though some Texans, particularly African Americans and Mexican Americans, tend to be separate from the political culture of the dominant Anglo majority, history and political institutions have shaped the assumptions that most Texans bring to politics.
- vii) The intense patriotism of Texans is shaped by the myth that Texas is the most wonderful place to live that ever existed on the planet.
- b) Conservatism
 - i) The conservatism characterized by Thomas Jefferson's statement that "that government is best which governs least" has dominated Texas politics since the end of the Civil War.
 - ii) **Conservatism** refers to a general hostility to government activity, or **laissez-faire**, especially in the economic sphere and is consistent with the individualist political culture on economic issues and consistent with the traditionalist political culture on social issues.
 - iii) Texas conservatism minimizes the role of government in society while stressing an individualism that maximizes the role of businesspeople in controlling the economy.
- c) Social Darwinism
 - i) The belief that individuals who prosper and rise to the top of the socioeconomic ladder are worthy and deserving, while those who sink to the bottom are unworthy and deserve their poverty continues to dominate the thinking of many Texans.
 - ii) The prevalence of **Social Darwinism** has resulted in many state policies that are unusually stingy toward the underprivileged.
 - iii) Emanating from pseudo laissez-faire economic doctrine and Social Darwinism is a **trickle-down theory** of economic and social development (holding that everyone's situation can be bettered by insuring that business flourishes) which is common in Texas.
- d) Liberalism
 - i) **Liberalism** regards government activity as often a good thing.
 - ii) Although less influential in Texas politics, liberal politicians and ideas have occasionally been competitive with conservatism.

VII. Economy, Taxes, and Services

- a) The Rise and Decline of the Texas Economy
 - i) The Texas economy has been transformed in the 20th century, first by the boom in the oil industry and then by diversification into petrochemicals, aerospace, computers, and other industries.
 - ii) A 1996 survey found that Texas had the second most favorable business climate among the 50 states, and Forbes magazine ranked Austin as the best business city in the country in 2003.
- b) The Challenge of Jeffersonian Conservatism
 - i) In the long run the policies that create a favorable business climate may create a fragile economy.
 - ii) In 2002 the Corporation for Enterprise Development flunked the Texas economy as a whole commenting that the disparity between the wealthy and the poor augured poorly for Texas' future.
 - iii) Texas ranks low among the states in a variety of measures of state services, a fact which suggests that Texas's laissez-faire ideology has not served its citizens well.
 - iv) The greatest accomplishment of Texas government in this century, keeping taxes low, may not be enough to meet future challenges.

VIII. The People of Texas

- a) The Census
 - i) The state's history has been marked by a succession of immigrations which have added to the original Indian population Spaniards, Anglo-Saxons (some bringing African slaves), and Europeans, Asians, and Mexicans.
 - ii) The oil price depression of the late 1980s brought a brief outflow of migration, but the long-term pattern of immigration resumed in the early 1990s.
 - iii) Critics of the census contend that it misses millions of poor people and that, in 1980, 1990, and 2000 the population of Texas was undercounted by several hundred thousand people.
 - iv) The increasing population gave Texas three additional seats in the U.S. House of Representatives in 1990 and two more in 2000, bringing the total to thirty-two.
 - v) By 2000 Hispanics accounted for 32% of the state's population and African Americans comprised 11.5%.

- vi) If present population growth continues past 2005, a majority of Texas' population will be Hispanic by 2030.
- b) The Distribution of Population
 - i) Population distribution in Texas reflects patterns of migration, the influence of geography and climate, and the location of cities.
 - ii) Reflecting migration patterns, the state's Hispanic population remains concentrated in South and West Texas while African Americans are concentrated in the eastern half of the state.
 - iii) The decreasing capacity of the climate to support intensive farming as one moves west and the heavy concentration of population in the state's urban areas are also important elements in the distribution of population.
- c) The Political Relevance of Population
 - i) The economic differences between the Anglo population and the Mexican American and African American populations produce economic and political conflict.
 - ii) As the Mexican American and African American share of the population increases relative to the Anglo population, their more liberal views will impact electoral politics and public policy.

IX. The Agenda

X. Summary

CHAPTER 2

THE CONSTITUTIONAL SETTING

MULTI-MEDIA RESOURCE GUIDE

Web Page

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INFOTRAC College Edition

<http://www.infotrac-college.com/wadsworth+password>

Key Words for *Infotrac* Research: Bill of Rights, checks and balances, constitutions, home rule, separation of powers

Videos

Dallas Telecourse Video: Texas Politics and You: The Texas Constitution, ISBN 0-534-54355-3. This video explains how the Texas Constitution is amended, explains what accounts for the fact that it has been amended so often, and examines the advantages to interest groups in having their particular concerns addressed in the Constitution.

Print Resources

The Book of the States, 2006 Edition. Lexington, Ky.: The Council of State Governments, 2006.

For comparative data on a wide variety of activities and attributes of the states (including material on constitutions), *The Book of the States* is an unrivaled source.

Braden, George D., et al. *The Constitution of the State of Texas: An Annotated and Comparative Analysis*. 2 vols. Austin: Texas Advisory Commission on Intergovernmental Relations, 1977.

This work, a product of the constitutional revision efforts of the early 1970s, analyzes the Texas Constitution (as amended through April 1975) section by section, providing historical and explanatory notes, comparisons with other state constitutions, and comments by the authors. Even a brief time spent browsing through these volumes is likely to yield some analysis and even a few anecdotes worth working into a lecture.

Fehrenbach, T. R. *Lone Star: A History of Texas and the Texans*. New York: Macmillan Publishing Company, 1968.

Lone Star is the standard history of Texas and contains brief, very readable accounts of major constitutional developments, including a few pages devoted to the Constitutional Convention of 1875.

May, Janice C. *The Texas Constitutional Revision Experience in the '70s*. Austin, Texas: Sterling Swift Publishing Company, 1975.

Devoted primarily to recounting and analyzing the Constitutional Convention of 1974, this book is also valuable for its concise introductory chapters on state constitutions and on the history of Texas constitutions.

Richardson, Rupert N., Ernest Wallace, and Adrian Anderson. *Texas: The Lone Star State*. 5th ed. Englewood Cliffs, NJ: Prentice Hall, 1988.

The Texas Almanac and State Industrial Guide, 1998-99. Dallas: The Dallas Morning News, 1997.

This standard reference work for the state has included the complete text of the Texas Constitution as amended, until the 2000-2001 edition. It continues to summarize proposed amendments. Probably the most accessible source now for a most inaccessible constitution is on the state government's Web page at www.capitol.state.tx.us/txconst/toc.html.

CHAPTER OUTLINE

- I. Introduction
- II. Purposes of Constitutions
 - a) Legitimacy
 - i) Giving legitimacy to the government is the most abstract and ambiguous purpose served by constitutions.
 - ii) A government has legitimacy when its citizens accept its actions as moral, fair, and just.
 - iii) The requirements for governmental legitimacy vary according to what the citizens are willing to accept based on their history and political culture.
 4. The traditionalistic/individualistic political culture is more dedicated to limiting government than the moralistic political culture.
 - b) Organizing Government
 - i) This purpose involves clarifying who the major officials are, how they are selected, and what the relationship is between those charged with basic governmental functions.
 - ii) Although the organizational provisions of state constitutions vary widely, they generally follow the model provided by the U.S. Constitution by incorporating **separation of powers** with a system of **checks and balances**.
 - iii) Each state establishes an elected chief executive, a bicameral legislature (except in Nebraska), and a judicial system with some type of supreme court.
 4. In Texas, the traditionalistic and individualistic political cultures have dominated the constitutional process.
 - c) Providing Power
 - i) The Texas Constitution provides power for the state government subject to the U.S. Constitution's division of powers between the national government and state governments.
 - ii) Although states retain primary control over many types of activity, the power of state officials has been reduced by a combination of factors, including the expansion of the federal government's role in various areas.
 - d) Limiting Governmental Power
 - i) Americans' history and national character support the belief in limited government that has produced **bills of rights** in both the U.S. and Texas constitutions and other constitutional protections against arbitrary governmental action.
 - ii) Reflecting popular dissatisfaction with Reconstruction rule, the Texas Constitution limits government by being very specific in its content.
- III. Texas Constitutions
 - a) Introduction
 - i) Texas is currently governed by its sixth constitution, compared to only two fundamental laws for the United States.
 - ii) The existence of five constitutions in the forty years prior to 1876 is evidence of the political turbulence in Texas during the period.
 - b) The Constitution of the Republic of Texas (1836-45)
 - i) After 131 years of Spanish rule and 15 years of Mexican rule, Texans declared their independence in 1836.
 - ii) The Constitution of the Republic of Texas was drafted soon after and ratified in September 1836.
 - iii) Its major features paralleled those of the U.S. Constitution, but the document also guaranteed the continuation of slavery.
 - c) The "Statehood Constitution" (1845-61)
 - i) Admission to the Union necessitated a new constitution.
 - ii) The Constitution of 1845 was modeled after the constitutions of other Southern states.

- iii) Embracing democratic principles of participation and elements of the 20th century administrative reform movement, this brief, clear document was regarded as one of the nation's best constitutions at the time.
- iv) Influenced by Jacksonian democracy, the "statehood constitution" made almost every office elective and limited by short terms.
- d) The Civil War Constitution (1861-66)
 - i) Secession prompted the adoption of a slightly revised constitution.
 - ii) The Constitution of 1861 altered the 1845 document to further protect slavery and to declare allegiance to the Confederacy.
- e) The Reconstruction Constitution (1866-69)
 - i) A new constitution was ratified in an effort to meet the requirements imposed by President Andrew Johnson on Southern states for readmission to the Union.
 - ii) The provisions of this constitution did not satisfy the radical leadership of the U.S. Congress and so it was short-lived.
- f) The Radical Reconstruction Constitution (1869-76)
 - i) The constitution drafted in 1868-69 contained many features, such as centralized power, generous salaries for state officials, appointed judges, and annual legislative sessions, that modern reformers would like to see in a revised constitution.
 - ii) Although forward-looking in terms of power and organization, this constitution was the least effective of the various Texas constitutions in promoting legitimacy since it was forced on the state by outsiders.

IV. The Present Texas Constitution

- a) Historical Background
 - i) Sentiment favoring **constitutional revision** appeared as soon as Democrats regained control of the legislative branch in 1872.
 - ii) Following the failure of a reform effort in 1874, a constitutional convention was organized in 1875.
 - (1) The 90 delegates, overwhelmingly conservative, reflected the "retrenchment and reform" philosophy of the **Grange**.
 - (2) The delegates' conservatism included a belief in white supremacy and a determination to limit the powers of government.
 - iii) The document produced by the convention contained many provisions restricting the government's powers, and especially those of the governor.
 - iv) The state's voters approved the document by a wide margin in February 1876.
- b) General Features
 - i) The Texas Constitution contains a preamble and sixteen articles.
 - ii) Because the Constitution contains many details of policy and governmental organization to avoid abuse of governmental powers and to protect various private interests, it is a long and poorly organized document.
 - iii) The Constitution reflects the time of its writing, an era of strong conservative, agrarian interests and reaction to carpetbag rule.
 - iv) It contains many unenforceable provisions, known as deadwood, that conflict with the national Constitution.
 - v) The Constitution's 432 amendments by the end of 2003 have been necessary due to the restrictive character of the document but they have produced a Constitution that is poorly organized, difficult to read and interpret, and the second longest constitution in the nation.
- c) Specific Features
 - i) The Texas Constitution is similar in many ways to the U.S. Constitution.
 - (1) Each government has executive, legislative, and judicial branches.
 - (2) Both are separation of power systems.
 - (3) Both include provisions against unequal or arbitrary government action.
 - ii) The two Constitutions differ with regard to providing power to government.
 - (1) The national Constitution is much more flexible in allowing government to act than is the state Constitution.
- d) Bill of Rights

- i) Article I of the Texas Constitution, like the national Bill of Rights, provides for equality under the law, religious freedom, due process, and freedom of speech and press.
 - ii) It also protects the mentally incompetent and provides specific guarantees such as the one prohibiting the outlawing of an individual from the state.
 - iii) The provisions of Article I are broadly supported by the state's citizens and have been left intact during modern constitutional revision efforts.
- e) Separation of Powers
 - i) The separation of powers, outlined in Article II, is reinforced by checks and balances, many of which are the same as those found in the U.S. Constitution.
 - ii) Because the concept of checks and balances involves assigning functions identified with one branch to another, powers are actually overlapping and shared rather than being truly separated.
- f) Legislative Branch
 - i) Article III establishes a legislative body but, rather than emphasizing the positive powers of the legislature, the article spells out those specific actions that the legislature cannot take.
 - ii) Unlike the national Constitution which allows lawmaking to be handled through the regular legislative process, the Texas Constitution forces state government to resort to the constitutional amendment process.
 - iii) Article III also spells out a number of limitations on legislative powers, including the following:
 - (1) Regular legislative sessions occur only once every two years.
 - (2) The number of days allotted to particular tasks is specified.
 - (3) Legislators' salaries and per diem are described and, historically, could only be changed by constitutional amendment.
 - (4) The legislature may not authorize state borrowing.
 - (5) This article rather than the municipal corporations articles includes provisions for municipal employees to participate in social security programs.
 - (6) The legislature may not grant public monies to individuals, but exceptions are made for Confederate soldiers, sailors, and their widows.
 - iv) Similar idiosyncratic provisions and limitations on legislative actions appear throughout the constitution.
 - v) Although detailed restrictions in this rigid document tie the hands of legislators, the legislature is nonetheless the dominant institution in the state.
- g) Executive Branch
 - i) The constitution creates (in Article IV) a **plural executive** with the result that the executive branch is "fragmented" and the governor has little or no control over other executive officials.
 - ii) The constitution requires that the lieutenant governor, the comptroller of public accounts, the commissioner of the General Land Office, the attorney general, and members of the Texas Railroad Commission be elected statewide.
 - iii) Statutory laws require the election of the agriculture commissioner and the members of the State Board of Education.
 - iv) Like the legislative article, the executive article is overly specific, making it difficult for the governor to act.
 - v) The governor does, however, possess significant legislative powers through control of special sessions and the veto and in recent years has been strengthened by amendments to lengthen the term of office to four years and provide powers of removal, and by legislation to provide greater control over major policy boards.
- h) Judicial Branch
 - i) The judicial article (Article V) is overly specific and includes such features as the requirement that each county have an elected sheriff.
 - ii) The judicial article has three distinctive features:
 - (1) It creates six types of courts and separate supreme courts for civil and criminal matters.
 - (2) Different trial court levels are given concurrent jurisdiction, but some courts at the same level have different jurisdiction depending on whether they are constitutional or statutory.
 - (3) Judges' qualifications may be compromised because those with no legal training may be eligible for a trial court bench and judges are elected and not appointed.
- i) Local Government

- i) The constitution gives units of local government (counties, municipalities, and special districts) varying degrees of flexibility.
- ii) Counties, the administrative and judicial arms of the state, are most restricted as they are saddled by the constitution with a commission form of government.
- iii) Cities have greater flexibility as those with populations over 5,000 are permitted to adopt **home-rule** charters.
- iv) Special districts, of which school districts are the best known type, continue to proliferate because they provide a way around tax and debt limits imposed on cities and counties.
- j) **Suffrage**
 - i) Many of the provisions on voting and legislative apportionment in the constitution have conflicted with federal law, such as provisions with respect to minimum voting age and property ownership as a requirement for voting in bond elections.
 - ii) The consequence of these conflicts has been frequent amendments and a constitution shot through with “temporary transition provisions” to bridge the gap between state and federal law.
- k) **Amendments**
 - i) Amendments to the constitution are proposed by an absolute two-thirds majority vote in both houses of the legislature and ratified by a simple majority vote in a statewide election.
 - ii) The 432 amendments in the Texas Constitution suggest that the amending process has occupied considerable legislative time and that it is increasingly relied upon to get something done in government.
 - iii) Although some streamlining of the state Constitution should ensue from a 1997 amendment that called for the elimination of obsolete provisions and duplicate numbers, most observers believe that more clean-up will be needed.

V. Constitutional Revision

- a) **Overview of the Need for Reform**
 - i) While the framers of the U.S. Constitution provided only the essential structure of national government and broad powers to insure flexibility, the Texas Constitution is long, restrictive, confusing, and protects the concerns of vested interests and therefore requires frequent amending.
 - ii) State constitutions which were ratified more recently tend to have sound, workable constitutions while those, like Texas, which are older tend to be more problematic.
 - iii) Texas is not alone in having a proliferation of constitutional amendments, but the method of constitutional amendment is less likely to affect the frequency of amendment as much as the quality of the basic document.
 - iv) Reform advocates urge Texas to follow Alexander Hamilton’s prescription by adopting a new document that is general, flexible, and streamlined.
 - v) Proposals for reform focus on these problems:
 - (1) Biennial legislative sessions.
 - (2) Organization of the judicial system.
 - (3) The plural executive branch.
 - (4) The weakness of county governments.
 - (5) Excessive detail in the constitution.
- b) **Recent Reform Efforts**
 - i) 1971-1974
 - (1) From 1971 to 1974, a major effort to revise the constitution was mounted as the legislature convened itself as a constitutional convention.
 - (a) The constitutional convention (the "Con-Con") was the product of a constitutional amendment authorizing the legislature to act.
 - (b) The Texas Constitutional Revision Commission, created by the same amendment, provided a detailed study that served as the basis for new constitutions proposed in 1974 and 1975.
 - (2) The proposal drafted by the constitutional convention, which never made it to the voters, was defeated because opponents were able to focus attention on the controversial pari-mutuel betting and right-to-work provisions.
 - ii) 1975

- (1) Constitutional reform was revived by the legislature in 1975, but a proposal that included many of the changes suggested by the 1973 Revision Commission was defeated two-to-one by the voters due to fears that the new document might promote more spending and allow greater governmental power.
- iii) 1976-1991
 - (1) From 1976 to 1991, little interest was shown in constitutional revision, both because the legislature was too concerned with more pressing problems and because the many groups with interests protected by the current constitution were not supportive of change.
- iv) 1992 and Beyond
 - (1) A constitutional reform proposal prepared by Senator John Montford for introduction in the 1993 legislative session included the following provisions:
 - (a) Six-year Senate and four-year House terms with limits of two and three consecutive terms, respectively.
 - (b) A 60-day budget session of the legislature in even-numbered years.
 - (c) Authority for the legislature to meet to reconsider bills that were vetoed.
 - (d) The only elected executives to be the governor, lieutenant governor, and comptroller, each with a limit of two terms.
 - (e) Simplification of the judiciary and nonpartisan judicial elections.
 - (f) Creation of five regional university systems with each sharing in the Permanent University Fund (PUF).
 - (g) Ordinance power for counties, subject to local voter approval.
 - (2) More immediate problems crowded out constitutional revision in 1993 and 1995 and, after Montford left the legislature, revision was not even considered by the legislature in 1997.
 - (3) In 1997 Representative Rob Junell was joined by Senator Bill Ratliff in proposing constitutional reforms that were similar to Montford's but they, too, were withdrawn when it became apparent that support was thin.
 - (4) Although three powerful legislators in recent years have taken an interest in constitutional reform, nothing has come of their efforts due to lack of interest and the political conservatism of the state's citizens.
 - (5) It is likely that constitutional amendments will continue to be the primary approach used to patch a creaky Texas Constitution.

VI. Constitutional Politics

- a) Something for Everyone
 - i) Special interests view the constitution as a durable vehicle for their own policy concerns and therefore attempt to influence its content.
 - (1) One strategy is to seek to include in the constitution provisions that will result in economic benefits for the group.
 - (2) Using the constitution to prevent the state from acting (as with pari-mutuel betting before 1987 or with a state income tax more recently) is another method special interests may employ.
 - (3) Altering existing constitutional provisions (such as the authorization of bond sales to purchase land and provide home loans for veterans, limitations on welfare spending, and restrictions on branch banking) is another means of advancing some special interest.
 - ii) Elected officials may also either support constitutional change in hopes of augmenting their powers or oppose it in order to avoid losing powers.
- b) The Political Process
 - i) The politics of constitutional change are much like the politics involved in other areas of public policy.
 - ii) The issue of how building projects at state universities are to be funded, resolved by a constitutional amendment adopted in 1984, provides an illustration of the process.
 - (1) The University of Texas at Austin and Texas A&M University at College Station were, constitutionally, the sole beneficiaries of the \$10 billion Permanent University Fund (PUF).
 - (2) After the state property tax, the primary source of funds for construction at other state universities, was abolished in 1982, the legislature was forced to come up with an alternative source of funds.

- (3) Ultimately, the various interest groups involved (including university alumni, taxpayers, business and industrial interests, minority interests, the House and Senate, the governor, and the Texas Higher Education Coordinating Board) settled on a plan whereby PUF coverage would continue for institutions in the UT and A&M systems and a separate capital fund would be established to cover other state institutions.
- d. In 2001 the legislature changed the system to begin reducing the amount of appropriated funds that went into the Higher Education Fund and additional changes were made in 2003 that eliminated this special pot for construction dollars at non-PUF schools and shifted emphasis to research-only funding.
- e. Consequently, university students outside the UT and A&M systems have faced higher fees and tuition that are in part pledged to construction bonds.

VII. Summary