

The background of the cover is a photograph of the Statue of Liberty, taken from a low angle looking up. The statue's crown and face are visible in the lower half, while the torch and the upper part of the crown extend towards the top. The sky is a clear blue with some white clouds.

FIFTH EDITION

APPROACHING DEMOCRACY

Larry Berman

Bruce Allen Murphy

TEACHING AND
LEARNING
CLASSROOM EDITION

APPROACHING DEMOCRACY

FIFTH EDITION

Larry Berman

University of California, Davis

Bruce Allen Murphy

Lafayette College



UPPER SADDLE RIVER, NEW JERSEY 07458

Library of Congress Cataloging-in-Publication Data

Berman, Larry.

Approaching democracy/Larry Berman, Bruce Allen Murphy.—5th ed.
p. cm.

Includes bibliographical references and index.

ISBN 0-13-174401-1

1. United States—Politics and government. 2. Democracy—United States.

I. Murphy, Bruce Allen. II. Title.

JK274.B524 2006

320.473—dc22

2006008908

Editorial Director: Charlyce Jones Owen

Executive Editor: Dickson Musslewhite

Editorial Assistant: Jennifer Murphy

Director of Marketing: Brandy Dawson

Senior Marketing Manager: Emily Cleary

Director of Manufacturing and Production: Barbara Kittle

Senior Managing Editor: Lisa Iarkowski

Developmental Editor: Elaine Silverstein

Production Liaison: Joe Scordato

Project Manager: Karen Ettinger, Techbooks, Inc.

Copy Editor: Karen Keady

Prepress and Manufacturing Manager: Nick Sklitsis

Prepress and Manufacturing Buyer: Ben Smith

Creative Design Director: Leslie Osher

Art Director: Amy Rosen

Interior Design: Techbooks, T-9, Running River Design

Cover Design: Running River Design

Director, Image Resource Center: Melinda Reo

Manager, Rights and Permissions: Zina Arabia

Manager, Visual Research: Beth Brenzel

Manager, Cover Visual Research & Permissions: Karen Sanatar

Image Permission Coordinator: Annette Linder

Photo Researcher: Teri Stratford

Cover Image: Jeff Greenberg/Omni Photos Communications, Inc.

This book was set in 10/12 New Baskerville by Techbooks

and was printed and bound by Cadmus Communications.

The cover was printed by Phoenix Color Corp.

Credits and acknowledgments borrowed from other sources and reproduced, with permission, in this textbook appear on appropriate page within text, or on pages 627–644.

Copyright ©2007, 2003, 2001, 1999, 1996 by Pearson Education, Inc., Upper Saddle River, NJ, 07458.

Pearson Prentice Hall. All rights reserved. Printed in the United States of America. This publication is protected by copyright and permission should be obtained from the publisher prior to any prohibited reproduction, storage in a retrieval system, or transmission in any form or by any means, electronic, mechanical, photocopying, recording, or likewise. For information regarding permission(s), write to: Rights and Permissions Department.

Pearson Prentice Hall™ is a trademark of Pearson Education, Inc.

Pearson™ is a registered trademark of Pearson plc

Prentice Hall™ is a registered trademark of Pearson Education, Inc.

Pearson Education LTD.

Pearson Education Australia PTY, Limited

Pearson Education Singapore, Pte. Ltd

Pearson Education North Asia Ltd

Pearson Education, Canada, Ltd.

Pearson Educación de Mexico, S.A. de C.V.

Pearson Education—Japan

Pearson Education Malaysia, Pte. Ltd



10 9 8 7 6 5 4 3 2 1
ISBN 0-13-174401-1



PREFACE

Welcome to the fifth edition of *Approaching Democracy*, our ever-evolving exploration of the American experiment in self-governing. A great deal has happened in American politics since we published the first edition a decade ago. We have tried to remain as up-to-date as possible with respect to current events around the globe while retaining our original theme. Although an introductory course in American government is not solely a course on current events, students are always interested in what is going on around them. Throughout the text, we use examples that are at the forefront of the news so that students have background information to draw from and hopefully some of you will be empowered to become more engaged in political discussion and civic life.

Our title and framework came from Vaclav Havel, a former dissident Czechoslovakian playwright once imprisoned by his country's communist government and later elected its president. Addressing a joint session of the U.S. Congress on February 21, 1990, Havel noted that with the collapse of the Soviet Union, millions of people from Eastern Europe were involved in a historically irreversible process, beginning their quest for freedom and democracy. And it was the United States of America that provided the model, the map to democracy and independence, for these newly freed peoples. But Havel put his own spin on the notion of American democracy: "As long as people are people, democracy, in the full sense of the word, will always be no more than an ideal. In this sense, you, too, are merely approaching democracy. But you have one great advantage: You have been approaching democracy uninterruptedly for more than two hundred years, and your journey toward the horizon has never been disrupted by a totalitarian system."¹

In spite of its astonishing diversity and the consequent potential for hostility and violence, the United States has spent over two centuries moving towards, and sometimes away from, the democratic ideal. The process of approaching democracy is a continual one, and the debate about how to achieve democratic aspirations drives politics in America as well as in far away countries like Iraq. No matter how controversial the lead-up to war in Iraq, the stirring image of Iraqi citizens voting for the very first time and jubilantly waving their blue stained fingers illustrates that approaching the aspirations of democracy remains a universal goal. Still, those very Iraqi elections were only the first step in constructing a stable civil society and providing for a constitution that will allow political institutions to evolve with legitimacy and a chance for sustaining civil society.

American representative democracy remains very much a work in progress, but our approach to democracy serves as a template for people everywhere. The chapters in this textbook sort out the ideals, study the institutions, processes and policies, and analyze the challenges and paradoxes of our system. For example, since the terrible attacks of September 11, 2001, political discussion has raged over how to protect this country and still remain true to the ideals of the democracy as expressed by the Declaration of Independence, The Constitution, and the Bill of Rights. The enormous challenges facing our country in the war on terrorism have

¹Congressional Record-House, February 21, 1990, p. H392-95.

involved two controversial programs, the Patriot Act and the government's domestic surveillance program. Both involve protecting the American people, but both raise fundamental challenges for balancing security and liberty. Our goal is not to end discussion on these topics; rather, we hope students will develop an interest in continuing the dialogue on America's approach to the democratic ideal.

In many respects, the first edition of this book published in 1986 was written with an eye toward measuring whether the emerging democracies from the breakup of the Soviet Union would remain democratic. Four editions and a decade later we are interested in the nature of America's own democracy, as the government continues its policies for fighting a war on terrorism, reshapes a Supreme Court, considers major campaign finance and lobbying reforms and public opinion debates the presence of American troops in Iraq. We believe that our theme "approaching democracy" provides you with a conceptual lens for evaluating the performance of the American political system and for discussing whether this nation will remain a model for emulation. We think it will, but we also believe that the subject needs continuous dialogue, as illustrated by the debate on immigration reform.

ORGANIZATION

Part I presents the foundations of American government. Our theme is introduced in Chapter 1, in which we identify goals and elements useful in evaluating America's approach to democracy. We introduce a few widely accepted "elements of democracy" that serve as markers to identify progress toward the democratic ideals we identified earlier.

Part II explores the institutions of American democracy. It describes the various governmental arenas—the judiciary, Congress, executive branch, and bureaucracy—where the struggle over democratic ideals plays out.

Part III focuses on the processes of American government and democracy. Through the avenues of public opinion, political parties, elections, interest groups, and the media, citizens can reach and direct their government to achieve their desired goals.

Part IV provides a detailed analysis of various issues of civil rights and liberties. They include the most fundamental rights of Americans, such as freedom of speech and religion, and are considered by many to be the foundation of our democracy.

Part V addresses the policy-making process and its consequences. How well national policy makers respond to the challenges of policy making—and how democratic the policies are—remain crucial questions as American government continues the process of approaching democracy.

CHANGES IN THE FIFTH EDITION

As we noted earlier, this fifth edition contains much new material. Here are a few examples of new and updated material: You will find updates on the USA Patriot Act battle; discussion on the Harriet Miers and Samuel Alito Supreme Court nominations; an analysis of the Roberts Court of the new role of Justice Anthony Kennedy as the new swing justice on the Court; the new cyber-lobbying technique for judicial confirmations; the Jack Abramoff–Tom Delay lobbying scandal; analysis of the battle over the Senate's "nuclear option" seeking elimination of filibusters in judicial nominations; federalism battles over California's allowance of the medical use of marijuana and Oregon's "Death With Dignity" law; the battles over gay marriage and civil union laws; campaign finance and lobbying reform; legal battles over religion (creationism, Ten Commandments, monuments, and "intelligent design") in public schools and public life; the effect of the evangelical religious movement on American politics; the "Red State-Blue State" partisan electoral environment; and the continuing battles over affirmative action programs. There is also new and updated material on the Department of Homeland Security and the war on terrorism; the

role of bloggers in rewriting the rules of journalism; a five-year assessment of the Bush presidency; an assessment of the Rehnquist Court; a discussion of Operation Enduring Freedom and Operation Iraqi Freedom; an analysis of the Iraqi elections and constitution-drafting process; an analysis of the federal response to Hurricane Katrina; and the most recent 2006 Freedom House maps and opinion surveys.

THE TEACHING AND LEARNING CLASSROOM EDITION

Approaching Democracy, fifth edition, includes a new visual and pedagogical approach to engage students as they journey through their learning experience about American politics. This new edition is designed to stimulate thinking, discussion, analysis, and critical evaluation as well as provide support for learning. The new pedagogical organization of the text is featured in the new **Student Tool Kit** on pages xxix–xxxiv. Throughout the text and in the resources that support it we strive to help prepare students to be motivated, engaged participants in the processes and politics that define our government.

In addition, extensive teaching and learning resources accompany the text to support instructors in the classroom and students as they learn. Review and self-testing resources, unique applications that reinforce the connections of the text's content to everyday life events and issues, and extensive assignment, presentation, and assessment tools will make both the instructor's and student's experiences with *Approaching Democracy* a true and effective journey of discovery and learning.

Resources for Instructors

Instructor's Resource Manual with Test Item File The *Instructor's Resource Manual* contains a summary, review of concepts, lecture suggestions and topic outlines, and additional resource materials—including a guide to media resources—for each chapter in the book. An electronic version is also included on the *Faculty Resource CD-ROM*. Thoroughly reviewed and revised to ensure the highest level of quality and accuracy, the test item file offers more than 1,800 multiple-choice, true/false, and essay questions with page references to the text. ISBN: 0-13-174945-5

Faculty Resource CD-ROM This instructor resource allows flexibility in preparing lectures and assignments. It includes a database of resources including the instructor's manual, test item file, PowerPoint™ presentations, maps, charts and graphs both supplemental to and from the text, and primary source documents, all organized by chapter. ISBN: 0-13-179166-4

Prentice Hall Test Generator A computerized version of the test item file, this program allows full editing of questions and the addition of instructor-generated test items. Other special features include random generation, scrambling question order, and test preview before printing. Available in Windows and Macintosh formats. ISBN: 0-13-229234-3

Transparencies This set of full-color transparency acetates reproduces maps, charts, and figures from the text as well as from additional sources to enhance classroom presentation. ISBN: 0-13-179167-2

ABC News™/Prentice Hall Video Library: American Government—Instructor's Library

Prentice Hall and ABC News™ have assembled a 4-DVD set of more than seven hours of quality ABC News™ programming for classroom use. Through award-winning ABC News™ programs such as *Nightline* and *Primetime*, ABC News™ offers a resource

for feature- and documentary-style videos related to the topics in the text. The video set also includes a booklet that provides a brief summary of each video and discussion questions to help students critically evaluate how these real-life events and issues connect to the topics discussed in the American government course. For more information, contact your local Prentice Hall representative. ISBN: 0-13-198665-1

Prentice Hall Custom Video: How a Bill Becomes a Law This 25-minute video chronicles an environmental law in Massachusetts—from its start as one citizen’s concern to its passage in Washington, D.C. Students see the step-by-step process of how a bill becomes a law through narrative and graphics. For more information, contact your local Prentice Hall representative. ISBN: 0-13-032676-3

Films for the Humanities and Social Sciences With a qualifying order of textbooks from Prentice Hall, you may select from a high-quality library of political science videos from Films for the Humanities and Social Sciences. Contact your local Prentice Hall sales representative for a complete listing and qualifying information.

Choices: An American Government Custom Reader Exercise real freedom of expression by creating an American government reader that truly reflects your teaching style, your course goals, your perspective! *Choices: An American Government Custom Reader* delivers quality scholarship, pedagogy, and exceptional source materials. You choose the readings and the sequence. You can even add your own work or other favorite materials to create a reader that fits your course precisely. The price of your reader is determined by its length. Your students pay for what they need—no more. More than 250 articles, documents, book excerpts, and speeches—representing classic pieces as well as current articles and covering more than 20 topical areas—are available. Visit the *Choices* Web site at www.choicesreader.com and learn about updates.

Resources for Students

Practice Tests This comprehensive study aid provides a chapter outline, study notes, a glossary, and practice exams designed to reinforce information in the text and help students develop a greater understanding of American government and politics. ISBN: 0-13-223047-X

The Companion Website™ with Gradetracker www.prenhall.com/berman Students can now take full advantage of the World Wide Web to enrich their study of American government through the *Approaching Democracy Companion Website™*. The site features interactive practice tests, chapter objectives, and overviews. In addition, it provides access to *The New York Times* online for articles relevant to the study of politics and other Web destinations that provide additional insight into connections between politics and world events. Instructors now have the option of setting up a course to manage student progress through the site’s new gradebook feature. Or, they can simply make the site available for students’ independent use. *Student Access Code*: ISBN: 0-13-243961-1



Now with MakItReal! The new *Companion Website™* helps reinforce the connection of politics to real life with the integration of **MakItReal**, a unique collection of activities, simulations, and primary sources. **Activities** engage students to think about the relevancy of important issues—voting, social policy, rights and liberties, national security, etc.—to their own lives as well as to the nation as a whole. Moreover, most of these activities suggest a variety of forms of civic participation. Real-life **simulations** invite students to use real data—electoral results and maps,

Census 2000 data—to analyze key topics and issues. The simulations were developed to help students make informed decisions and experience politics as an insider would. **Primary sources** introduce students to key documents and information discussed in the text. The site includes **ABC News™ videos** that highlight issues relevant to politics. These resources correlate to content in the margins throughout the text. For information on student and instructor access to this new enhanced *Companion Website™ with Gradetracker*, contact your local Prentice Hall representative.



**ABC News™/Prentice Hall Video Library:
American Government—Student Library**

Bound into every new copy of the text is a 2-DVD set containing more than three hours of award-winning ABC News™ programs. This unique resource offers feature- and documentary-style videos on news events and issues that relate to the topics covered in the text. Included at the end of the text is a guide that provides a brief summary of each video as well as discussion questions to help students critically evaluate these events and issues as they relate to politics. The videos correlate to key topics in the margins throughout the text.

Onesearch: Evaluating Online Sources with Research Navigator™ This brief guide focuses on developing the critical thinking skills necessary to evaluate and effectively use online sources. It also provides an access code and instruction on using *Research Navigator™*, a powerful research tool that provides access to exclusive databases of reliable source material. Each guide includes an access code for the Research Navigator Web site. Contact your local Prentice Hall sales representative for more details.



Research Navigator™ This exciting new Internet resource helps students make the most of their research time. From finding the right articles and journals to citing sources, drafting and writing effective papers, and completing research assignments, *Research Navigator™* simplifies and streamlines the entire process. Contact your local Prentice Hall sales representative for more details or take a tour on the Web at www.researchnavigator.com.

ACKNOWLEDGMENTS

The fifth edition of *Approaching Democracy* is a new *Teaching and Learning Classroom Edition*. The idea and force behind the TLC edition came from Vice President and Editorial Director Charlyce Jones Owen. It is impossible to adequately express what her involvement has meant to each of us. Charlyce was there at the very beginning, over a decade ago, committed to the theme of *Approaching Democracy* and she has to this day remained steadfast in endorsing the theme as a teaching tool. There have been times during brainstorming sessions when we wanted to add Charlyce's name as contributing author. We value her professionalism, collegiality, and friendship. No authors can ever ask for more than Charlyce has given us.

We've been with Prentice Hall long enough to know that their team is made up of many talented and committed people. It is a pleasure to acknowledge them here: Rob DeGeorge, for his work on the supplements; Emily Cleary, for devising the marketing plan; Jennifer Murphy, Editorial Assistant, for maintaining the flow in both communication and packages; and Joe Scordato, Production Liaison, for watching over all the details.

Our thanks also go to the book's talented production team. We are especially grateful to Karen Ettinger, our project manager, for her professionalism and grace under pressure in supervising the entire effort, to Karen Keady for her skilled copyediting, to the Techbooks production staff for creating the fine page layout and rendering art, and to Candice Carta-Myers and Amy Rosen for creating the new design for the book. Our appreciation also goes to our photo researcher, Teri Stratford, for helping us to visually tell the story of "approaching democracy." Without the diligent efforts of all of these people, revising this book would not have been possible. We are also very grateful to James Corey, who added the annotations to the Constitution and to Professor Robert C. Ayer PhD, United States Coast Guard for providing a detailed reading of the fourth edition and for his contributions in the fifth edition.

We also wish to thank the many reviewers of the five editions of *Approaching Democracy* for their valuable suggestions.

William Bianco, Pennsylvania State University
 Robert Bradley, Illinois State University
 Rebecca Britton, California State University, Chico
 Mark A. Cichock, University of Texas at Arlington
 Thomas P. Dolan, Columbus State University
 Stacy B. Gordon, University of Nevada, Reno
 Randy Hagerty, Truman State University
 Henneth G. Hartman, Longview Community College
 Rebekah Herrick, Oklahoma State University
 Richard Himelfarb, Hofstra University
 Robert Jacobs, Central Washington University
 E. Terrence Jones, University of Missouri, St. Louis
 Joseph Jozwiak, Texas A&M—Corpus Christi
 Diana Owen, Georgetown University
 Kelly D. Patterson, Brigham Young University
 Daniel C. Reed, University of Georgia
 Dan Shea, Allegheny College
 Robert L. Silvey, John Jay College/CUNY
 Carolyn Taylor, Rogers State University
 Shirley Anne Warshaw, Gettysburg College
 John R. Wood, Rose State College

Larry Berman would like to thank his students at UC Davis for their many ideas for revising the book. He is also most appreciative of his former graduate students who are teaching American Government using the book and always providing feedback. He especially thanks Professors Linda Valenty, Monte Freidig, Drew Froelinger, and Stephen Routh in this regard. Berman also thanks Mary Byrne at the UC Washington Center for helping him organize the first set of revisions and for keeping track of the flow of UPS packages and copying of chapters. He is especially indebted to Karen Akerson for the new author's photo that appears in this edition.

Bruce Allen Murphy wishes once again to thank the undergraduate students in his Government 101 course at Lafayette College for their many suggestions for revising the textbook, as well as for providing the opportunity to test out his theories of American politics in front of them. Thanks go also to the incomparable Kirby Library research librarian, Mercedes Sharpless, and the wonderful interlibrary loan and reference staff at Skillman Library, all of who deserve heartfelt thanks for providing countless answers to desperate and seemingly impenetrable late night questions. Once more, my colleague John Kincaid was good enough to offer another extremely thorough and comprehensive critique of the Federalism chapter. My daughter Emily Patricia Wright Murphy was extremely helpful in assisting in the

research for some of the images used in this volume. And Lafayette students John Stephenson, Josie Dykstra, and Melissa Mazer were very helpful in performing many research assistance tasks. Sincere thanks go to Fred Morgan Kirby and his family for their generous support of the chair that he now holds. Finally, thanks go to his colleagues at Lafayette College, most especially Government and Law Department Head John McCartney, for continuing to make this work environment so pleasurable and productive.

Since no two scholars can master all of the fields in the political science discipline, we express gratitude to all of our colleagues for the many academic contributions upon which we drew for the writing of this book. We would both like to express appreciation for the generations of students at the University of California and Lafayette College for the continuing flow of unique questions and ideas that spurred us in the writing of this and other editions of the book. We would also like to thank those colleagues in the discipline who have provided us with suggestions for improving the volume after teaching with the first four editions, thus improving this new revision.

Finally, but most importantly, we would both like to recognize our families. Bruce Allen Murphy thanks his wife Carol Lynn Wright, and his children, Emily and Geoffrey, for their never-ending love, support, and encouragement throughout each of this book's revision processes. Larry Berman joins Murphy in the affections to family, adding only what he expressed in previous editions: Scott and Lindsay are reminders that our theme "approaching democracy" has meaning; Nicole is living proof that life only gets better.

Larry Berman
Bruce Allen Murphy

ABOUT THE AUTHORS

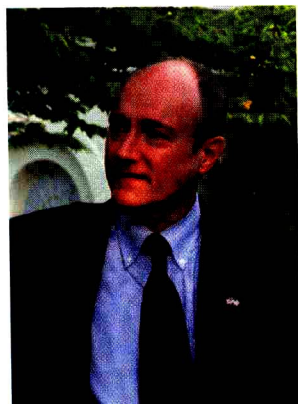


Photo by Karen Akerson

Larry Berman is Professor at the University of California, Davis. His research and publications focus on the presidency, foreign policy and Vietnam. He has written three books on the war, most recently *No Peace, No Honor: Nixon, Kissinger and Betrayal in Vietnam*. There is also a Vietnamese language edition, *Khong Hoa Binh, Chang Danh Du: Nixon, Kissinger, Va Su Phan Boi O Viet Nam*. His work has been featured on C-Span's *Book TV*, the History Channel's *Secrets of War*, Bill Moyers PBS series, "The Public Mind;" David McCullough's American Experience series, and "Vietnam: A Television History."

Larry Berman has received fellowships from the Guggenheim Foundation, the American Council of Learned Societies, the National Science Foundation, and research grants from several presidential libraries. He has received the Outstanding Mentor of Women in Political Science Award from the Women's Caucus for Political Science. He is a co-recipient of the Richard E. Neustadt Award, given annually for the best book published during the year in the field of the American Presidency. He received the Bernath Lecture Prize, given annually by the Society for Historians of American Foreign Relations to a scholar whose work has most contributed to our understanding of foreign relations. Berman has been a Fellow at the Woodrow Wilson International Center for Scholars in Washington, D.C. and scholar in residence at the Rockefeller Foundation's Center in Bellagio, Italy.

His class on the American presidency is cited in Lisa Birnbach's *New and Improved College Guide* as one of the most recommended classes for undergraduates at UC Davis. From September 1999–September 2005, Berman served as the founding director of the University of California Washington Center, an experiential learning program offering internships, research opportunities and academic instruction to UC students. He received his B.A. magna cum laude from The American University in Washington, D.C., and his Ph.D. from Princeton University in 1977.

In his spare time Larry enjoys fishing the lakes in the Sierras, camping, wilderness hiking and dreaming about the day when the Sacramento Kings finally win it all.

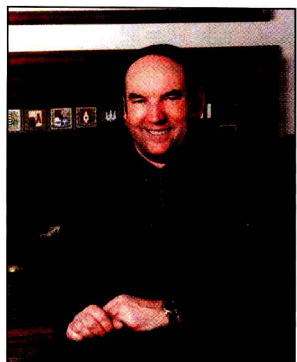


Photo by Craig M. Lampa

Bruce Allen Murphy is the Fred Morgan Kirby Professor of Civil Rights in the Department of Government and Law at Lafayette College. He is a nationally recognized judicial biographer and scholar on the American Supreme Court, civil rights and liberties, judicial behavior, and judicial biography.

Murphy is the author of many publications, including his newest judicial biography *Wild Bill: The Legend and Life of William O. Douglas, America's Most Controversial Supreme Court Justice*, which has been selected by the Book-of-the-Month and History book clubs. He also wrote *Fortas: The Rise and Ruin of a Supreme Court Justice*, which was nominated for both the Pulitzer Prize and the National Book Award. His bestselling *The Brandeis-*

Frankfurter Connection: The Secret Political Activities of Two Supreme Court Justices, which received the American Bar Association's Certificate of Merit, was listed among *The New York Times*' Best Books for 1983 and was serialized by *The Washington Post*. In addition, he edited *Portraits of American Politics: A Reader*.

Murphy has received numerous teaching awards for his courses in American politics, civil rights and liberties, and Constitutional law. He has been a finalist in the Council for the Advancement and Support of Education's national Professor of the Year competition and was cited as a Best Professor in Lisa Birnbach's *New and Improved College Guide*. He is listed in both *Who's Who in America* and *Who's Who in the World*.



SUPPLEMENTAL TEXTS AND READINGS FOR AMERICAN GOVERNMENT

Each of the following books features specialized topical coverage that will allow you to tailor your American government course to suit the focus and needs of your particular course. Featuring contemporary issues or timely readings, any of the following books is available at a special discount when bundled with *Approaching Democracy*. Please visit our online catalog at www.prenhall.com and contact your local Prentice Hall representative for additional details.

Government's Greatest Achievements: From Civil Rights to Homeland Security

Paul C. Light

ISBN: 0-13-110192-7

21 Debated: Issues in American Politics, 2nd ed.

Gregory Scott/Loren Gatch

ISBN: 0-13-184178-5

Issues in American Political Life: Money, Violence, and Biology, 5th ed.

Robert Thobaben/Donna Schlagheck/Charles Funderburk

ISBN: 0-13-193062-1

Strategies for Active Citizenship

Kateri M. Drexler/Gwen Garcelon

ISBN: 0-13-117295-6

The Political Science Student Writer's Manual, 4th ed.

Gregory M. Scott/Stephen M. Garrison

ISBN: 0-13-040447-0

REAL POLITICS IN AMERICA SERIES

This series is another resource for contemporary instructional material. To bridge the gap between research and relevancy, we have launched a new series of supplemental books with the help of series editor Paul Herrnson of the University of Maryland. More descriptive than quantitative, more case study than data study, these books cut across all topics to bring students relevant details in current political science research. From exploring the growing phenomenon of direct democracy to who runs for the state legislature, these books show students that real political science is meaningful and exciting. Available at a discount when bundled with *Approaching Democracy*. Contact your local Prentice Hall representative or access www.prenhall.com for a complete listing of titles in the series.

NEW!*From Inspiration to Legislation: How a Bill Becomes a Law*

Amy E. Black

ISBN: 0-13-110754-2

Presidential Campaign Quality: Incentives and Reform

Bruce Buchanan

ISBN: 0-13-184140-8

Clicker Politics: Essays on the California Recall

Shaun Bowler/Bruce E. Cain

ISBN: 0-13-193336-1

Congress and the Politics of Foreign Policy

Colton C. Campbell/Nicol C. Rae/John F. Stack, Jr.

ISBN: 0-13-042154-5

War Stories from Capitol Hill

Colton C. Campbell/Paul S. Herrnson

ISBN: 0-13-028088-7

Transforming the American Polity: The Presidency of George W. Bush and the War on Terrorism

Richard Conley

ISBN: 0-13-189342-4

Women's PACs: Abortion and Elections

Christine L. Day/Charles D. Hadley

ISBN: 0-13-117448-7

Reforming the Republic: Democratic Institutions for the New America

Todd Donovan/Shawn Bowler

ISBN: 0-13-099455-3

No Holds Barred: Negativity in U.S. Senate Campaigns

Patrick J. Kenney/Kim Fridkin Kahn

ISBN: 0-13-097760-8

NEW!*Smoking and Politics: Bureaucracy Centered Policymaking, 6th ed.*

A. Lee Fritschler/Catherine E. Rudder

ISBN: 0-13-179104-4

Stealing the Initiative: How State Government Responds to Direct Democracy

Elisabeth R. Gerber/Arthur Lupia/Mathew D. McCubbins/D. Rodderick Kiewiet

ISBN: 0-13-028407-6

The Medium and the Message: Television Advertising and American Elections

Kenneth M. Goldstein/Patricia Strach

ISBN: 0-13-177774-2

Cities and Privatization: Prospects for the New Century

Jeffrey D. Greene

ISBN: 0-13-029442-X

Playing Hardball: Campaigning for the U.S. Congress

Paul S. Herrnson

ISBN: 0-13-027133-0

NEW!*Electing Congress: New Rules for an Old Game*

David Magleby/J. Quin Monson/Kelly Patterson

ISBN: 0-13-243867-4

Congress and the Internet

James A. Thurber/Colton C. Campbell

ISBN: 0-13-099617-3

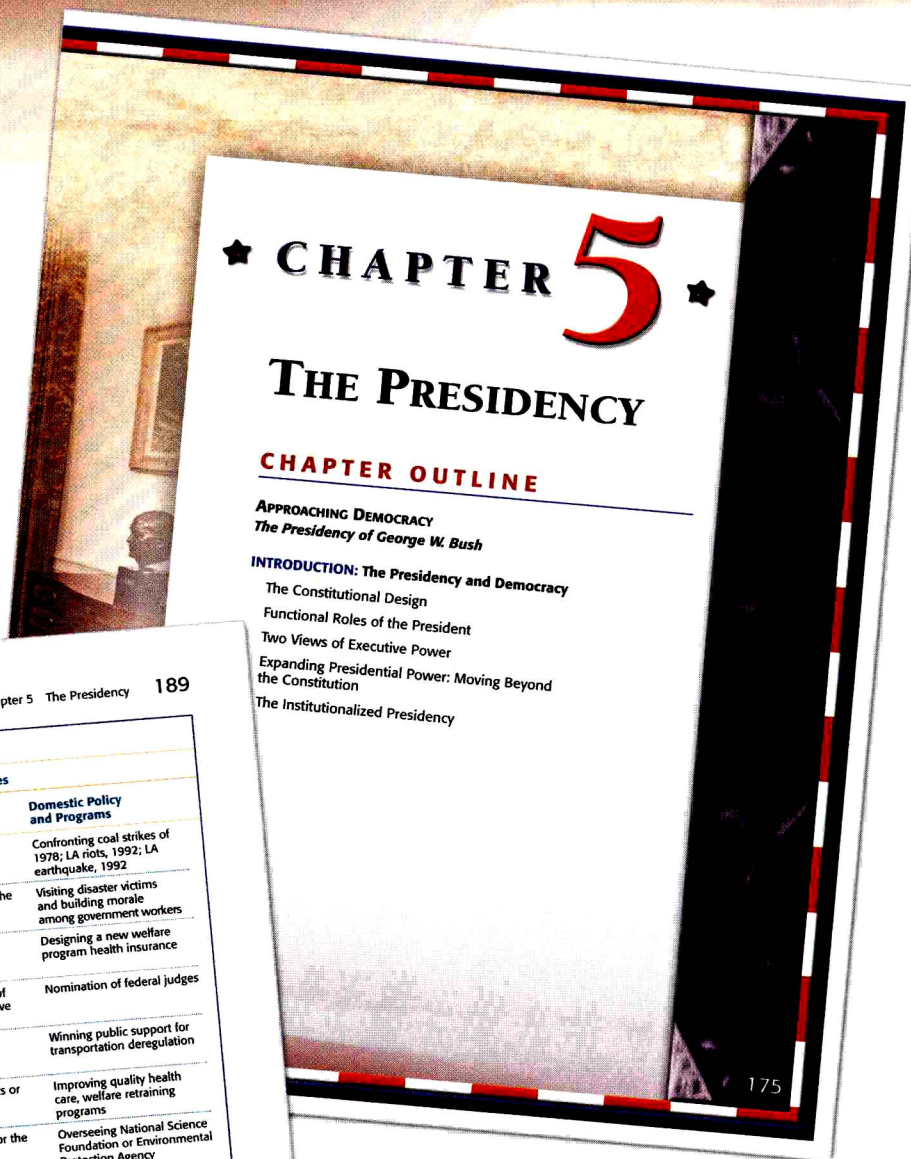
Student Tool Kit

Approaching Democracy is organized around a compelling theme and text and special features that will help facilitate reading and learning.

STUDY AIDS

Chapter Outlines

Each chapter opens with a **Chapter Outline** that serves as a study map to the chapter. Expanded pedagogical support helps students orient themselves to the chapter content.



Chapter 5 The Presidency 189

Table 5.3 The Presidential Job Description

Types of Activity	The Three Subpresidencies		
	Foreign Policy and National Security	Macroeconomics	Domestic Policy and Programs
Crisis management	Wartime leadership; missile crisis, 1962; Gulf War, 1991	Coping with recessions, 1982, 1992	Confronting coal strikes of 1978; LA riots, 1992; LA earthquake, 1992
Symbolic and morale-building leadership	Presidential state visit to Middle East or to China	Boosting confidence in the dollar	Visiting disaster victims and building morale among government workers
Priority setting and program design	Balancing pro-Israel policies with need for Arab oil	Choosing means of dealing with inflation, unemployment	Designing a new welfare program health insurance
Recruitment leadership (advisers, administrators, judges, ambassadors, etc.)	Selection of secretary of defense, UN ambassador	Selection of secretary of treasury, Federal Reserve Board governors	Nomination of federal judges
Legislative and political coalition building	Selling Panama or SALT treaties to Senate for approval	Lobbying for energy-legislation package	Winning public support for transportation deregulation
Program implementation and evaluation	Encouraging negotiations between Israel and Egypt	Implementing tax cuts or fuel rationing	Improving quality health care, welfare retraining programs
Oversight of government routines and establishment of an early-warning system for future problem areas	Overseeing U.S. bases abroad; ensuring that foreign-aid programs work effectively	Overseeing the IRS or the Small Business Administration	Overseeing National Science Foundation or Environmental Protection Agency

Source: From *The Paradoxes of the American Presidency* by Thomas E. Cronin and Michael A. Genovese. Copyright © 1998 by Oxford University Press, Inc. Used by permission of Oxford University Press, Inc.

roles of the presidency? Let us examine two reactions to this system: presidents who accept the restraints and live within them, and presidents who chafe at the restraints and invent ways to surpass or abolish them.

TWO VIEWS OF EXECUTIVE POWER

The Constitution is silent on how much actual power a president should possess. Article II begins with the ambiguous sentence, "The executive Power shall be vested in a President of the United States of America." What did the framers mean? Did "the executive Power" refer to a mere designation of office, or did it imply a broad and sweeping mandate to rule? Scholars and politicians alike have long debated the question without agreement. History has left it up to each president to determine the scope of executive powers, given a president's personality, philosophy, and the political circumstances of the time.

This executive power "wild card" has allowed many a president to outreach the Constitution's narrow prescriptions when conditions call for extraordinary action—or when the president thinks such action is necessary. Activist presidents find ways to justify sweeping policy innovations even if the Constitution has no specific language for those policies.

Franklin Roosevelt exemplified this approach in his March 4, 1933, inaugural address. With the Great Depression holding the country at the brink of economic

Questions for Reflection

How realistic are the expectations for the president to fulfill all these rules?
How would you amend the position to assure that democracy is best served?

Questions for Reflection

Questions addressing each chapter's main subtopics encourage careful consideration of important themes and developments in politics. The questions are included in the margins next to each subtopic to prompt students to think about what they should know after reading the section. These also serve as a resource for reviewing section content.

in establishing only a federal court system. of authority, of the federal and the lower federal those arising under the involving disputes between ambassadors, the Supreme Court to hear the case. as a party, admiralty are different states, and appellate jurisdiction, or federal or state court. me Court's powers, the and weakest of the three a representative government no explicitly political or ment in *The Federalist*, no, the political rights of the either the sword or the E nor WILL, but merely

t the organization and ju- l, Congress established a t or trial courts, appellate re fully the jurisdiction of power to review state court

it had no cases to decide. "intolerable" lack of pres- one—as governor of New 1803 with the decision in

Judicial Power

going president John Adams p of a lame duck Congress ppointments in the Senate, ts from his own party by is- office. When the incoming ssions, the appointment of of Columbia, Marbury sued . *Madison* decision. federal officials to carry out mission—a power given to Marshall (1801–35), himself on. After conceding that the eyond the issue to review the constitution Marshall brilliantly used this ause courts interpret law, and in interpret the Constitution, v, the Supreme Court's power states if those acts violate the r to say what the Constitution urt and placed it on an equal

original jurisdiction The authority of a court to be the first to hear a case.
appellate jurisdiction The authority of a court to hear a case on appeal after it has been argued in and decided by a lower federal or state court.
Marbury v. Madison The 1803 case in which Chief Justice John Marshall established the power of judicial review.
judicial review The power of the Supreme Court established in *Marbury v. Madison* to overturn acts of the president, Congress, and the states if those acts violate the Constitution. This power makes the Supreme Court the final interpreter of the Constitution.



Primary Source: *Federalist* #78: *The Judiciary Department*
Federalist #79: *The Judiciary Continued*

Primary Source: *The Federal Judiciary Act of 1789*

Primary Source: *Marbury v. Madison*

Quick Review

Marbury v. Madison

- Appointment of William Marbury as justice of the peace for the District of Columbia was denied by the incoming Jefferson administration.
- Marbury sued for his post, arguing that since courts interpret law, and the Constitution is a form of law, then the Supreme Court can interpret the Constitution.
- Chief Justice John Marshall established the power of judicial review, the power of the Supreme Court to overturn acts of the president.
- Landmark case helped to define the powers of the court.

Review Questions and Suggested Readings

New! Review questions help students reconsider and test their understanding of each chapter's main topics. A list of **suggested readings** highlights books that encourage further study and exploration.

Marginal Key Terms/Glossary

Important terms are defined in the margin and listed at the end of each chapter with appropriate page numbers. All **key terms** in the text are defined in a glossary at the end of the book.

New! Quick Reviews

The **Quick Reviews**, placed at key locations in the margins of each chapter, provide brief summaries of concepts, events, or topics and serve as a mini-review resource.

Summary

The **summary** is organized according to the main chapter topics and serves as an overview of chapter content.

Court, faced with today's difficult issues could not turn back off of issues that they would otherwise like to resolve now. What yet happens, judiciary actions in America's democracy will continue to have powerful implications for both government and individual rights.

Summary

- The federal courts decide all legal disputes arising under the Constitution, U.S. law, and treaties. In cases involving disputes between states or involving foreign ambassadors, the Supreme Court has original jurisdiction. For all other federal cases, it has appellate jurisdiction.
- In the 1803 case of *Marbury v. Madison*, Chief Justice Marshall argued that the Supreme Court has the power to interpret the Constitution. This power, known as judicial review, enables the Court to overturn actions of the executive and legislative branches and to reinterpret the Constitution to fit new situations. The power of statutory construction enables the Court to interpret a federal or state law.
- The power to appoint justices to the Supreme Court is shared by the president and Congress. The justices are appointed for life and can be impeached only for "High Crimes and Misdemeanors." The president can influence the Court by appointing justices who support a particular philosophy. Congress can change the number of justices or pass a law to reverse a Court decision.
- Most cases enter the judicial system through a trial court consisting of a single judge and, at times, a jury. The proceedings of the trial court are reviewed by an appellate court consisting of a panel of judges but no jury. Criminal cases involve violations of state or federal criminal law; civil cases involve private disputes. Most criminal cases are resolved by plea bargains, in which the accused agrees to reduce the charges or sentence in return for a guilty plea.

- which hear cases from thirteen usually in three-judge panels. District constitutional courts, but the includes legislative courts, courts
- Candidates for the Supreme senators, governors, the can friends, and federal judges, a the FBI and the American Bar nees to the Court are members and share the president's polit
- The confirmation process be Senate Judiciary Committee, v dation prior to a vote by the dures can constitute majori rejection of nearly one in five
- In nominations to district co torial courtesy gives senators power. Often, however, can senators in the president's have attempted to make the representative of the population
- The solicitor general decides peal from the lower courts, represents the United States. Appellate cases come to the writs of certiorari. If at least case, it is placed on the do Court has decided fewer case of appeals reaching it has inc
- When the Court accepts a c submit briefs, or written le

246 Part II Institutions of American Democracy

hold a conference to discuss and vote on the case, and one of the justices voting with the majority is assigned to draft the opinion, or written version of the decision. The opinion must be approved by at least five justices. A justice who agrees with the majority decision but differs on the reasoning may write a concurring opinion. When a justice disagrees with the Court's ruling, he or she may write a dissenting opinion.

- Interpretation of a law or a portion of the Constitution as closely as possible to the literal meaning of the words is known as *strict construction*. When the wording is vague, justices may attempt to determine the original

intent of the framers. Justices may consider the effect a ruling would have on public policy. Some justices believe in judicial restraint—deferring to the other branches of government whenever possible—others are judicial activists, believing that judges have a duty to further certain causes.

- Decisions of the Supreme Court become the law of the land. However, compliance with a decision is influenced by the extent to which the president supports it. It may also be circumvented by Congress, which can pass a new law or propose a constitutional amendment restating its original intentions.

Review Questions

- Why has the Supreme Court been the institution that has extended existing rights and even created new ones?
- In what ways and when has the Supreme Court protected us against tyranny of the majority?
- Why did the founding fathers view the judiciary as the "least dangerous" branch of government?
- What factors limit the Supreme Court's actions? What factors enhance their independence?
- What is the role of the law clerks on the "cert pool"? How have they affected the docket? How have they affected the independence of the court? Does this represent an approach to democracy? Why or why not?
- What factors influence the court's docket in a given year? How have these factors changed over time?
- Describe the political and legal roles of the "Tenth Justice" or Solicitor General. In what ways has this individual been influential?

Key Terms

original jurisdiction	constitutional courts	briefs
appellate jurisdiction	U.S. district courts	opinion
<i>Marbury v. Madison</i>	U.S. courts of appeals	majority opinion
judicial review	en banc	plurality opinion
statutory construction	legislative courts	concurring opinion
trial court	senatorial courtesy	dissenting opinion
appellate court	docket	stare decisis
criminal cases	writ of certiorari	precedents
plea bargains	rule of four	judicial restraint
civil cases	solicitor general	judicial activism
class action suit	amicus curiae briefs	

Suggested Readings

- ABRAHAM, HENRY J. *Justices, Presidents and Senators: A History of the U.S. Supreme Court Appointments from Washington to Clinton*. Lanham, Md.: Rowman and Littlefield, 1999. A complete history of presidential appointments to the Supreme Court and the decision making that resulted.
- BLACKMUN, HARRY. *The Harry Blackmun Papers at the Library of Congress, Manuscript Division*. Library of Congress, Washington D.C.: www.loc.gov/cv/mss/blackmun/ The most revealing Primary Source Examination of the Justice and the Recent Courts Available.
- BREYER, STEPHEN. *Active Liberty, Interpretive, Our Theory of Law*. Knopf, 2005. A thoughtful

SPECIAL FEATURES

Approaching Democracy Case Study

Each chapter opens with a **Case Study** that integrates the text's theme and lays the groundwork for the material that follows. Special care has been taken to select case studies that serve as anchors for the material covered in each chapter. Topics such as the life and politics of Cesar Chavez, the creation of a Department of Homeland Security, President George W. Bush's leadership in building an international coalition aimed at defeating terrorist networks, and renewal of the USA Patriot Act help students examine political events within the context of approaching democracy and in connection with real events and issues.

Approaching Democracy

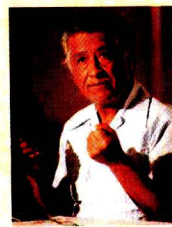
Si Se Puede—"It Can Be Done"

Martin Luther King Jr., Mahatma Gandhi, and Cesar Chavez personified nonviolent protest. Cesar Chavez was the single most important Latino leader in U.S. history. Chavez not only built the United Farm Workers Union (UFW), he also convinced millions of Americans to support the universal struggle for dignity. His main message was about reclaiming dignity for people who had been marginalized by society. This appeal, which went beyond the traditional bread-and-butter issues of unionism, found sympathy in groups everywhere. Through tireless travel across the farms and fields of the West, Chavez politicized migrant Mexican Americans and their communities to stand up for their rights as American workers. In 1965, Chavez led his organization to join the AFL-CIO strike against the grape and wine producers of Delano, California. Chavez maintained the boycott for the next ten years. His activities would help spawn the Latino civil rights movement. In the process of fighting the grape growers, Chavez forged a powerful coalition of unions, church groups, nonprofit organizations, students, minorities, and consumers to extend protective labor legislation to farm workers. Jerry Brown, then Democratic governor in California and sym-

thetic to Chavez's cause, helped pass the Agriculture Labor Relations Act in 1975, enabling UFW members to sign contracts with their employers for the first time.

Most of us associate democracy with expansion of the range of freedoms citizens enjoy. Although democracies do expand certain freedoms, they do not always protect basic human rights, political rights, and civil liberties. People have sometimes been denied their rights to obtain an education, to choose where to live, or to decide which occupations to pursue, simply because of their race, ethnicity, religion, gender, or sexual orientation. American democracy has been remarkably open, over the long run, to expanding rights and liberties for all its citizens—even if those rights and liberties have been achieved only with struggle, sacrifice, and occasional failure.

The struggle never ends. Working on behalf of Mexican Americans, Chavez became a full-time organizer, creating voter registration drives and campaigns against racial discrimination. Demonstrating his resolve through the Ghandian spirit of nonviolence, he conducted several hunger strikes while subsisting on UFW pay of \$5,000 a year. When he died of heart failure in 1993, thousands attended his funeral. He received the Presidential Medal of Freedom posthumously in 1994, the highest civilian honor bestowed in the United States.



▲ The Latino Chavez championed the cause of simply-minded migrant workers. Chavez drove his bus to help organize the boycott.

	Population	Percent distribution
Hispanic	48,044,128	16%
White	212,481,207	73%
Black	36,616,532	12%
Asian	10,624,871	4%
Native American	24,915,475	1%
Other	12,542,486	4%
Total population	296,226,409	100%

FIGURE 1.1
U.S. Population by Race and Ethnicity, 2004
Source: U.S. Census Bureau. Population by race and ethnicity, current population, March 2004.

Considered the "Dr. Martin Luther King" of the Hispanic civil rights movement and the most visible political icon in the Latino community, Chavez also attracted the attention of other Americans who wanted to improve American democracy. In the twelve years following Chavez's death, a surge in the number of Hispanic voters in Arizona, California, Texas, and Florida created a powerful political force. California passed a state holiday in Chavez's name, reflecting the new political voice of Latino voters and revealing the profound political impact of demographic changes in the makeup of the American electorate. The University of California has remained an administrative holiday in honor of Cesar Chavez. As Hispanics have gained more political power they have altered the American electorate in a way that captures the essence of what we mean by "approaching democracy." The U.S. Hispanic population increased 17 percent between 2000 and 2005 and is now 41.3 million. Projections are that Hispanics will account for 46 percent of all U.S. population growth over the next twenty years.¹ In May 2005 Antonio Villaraigosa was the first Hispanic mayor elected in Los Angeles in 133 years (see Figures 1.1 and 1.2).

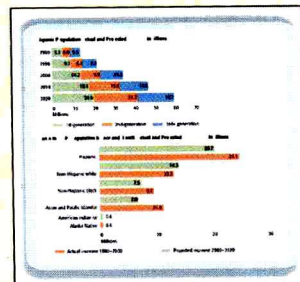


FIGURE 1.2
Hispanic Population, Actual and Projected, 1990-2020, in millions
Source: U.S. Census Bureau for 1990 to 2000; Pew Hispanic Center and Urban Institute for population for 2010 and 2020.

U.S.A. Yesterday and Today

The Back of the Bus

Imagine what it would be like to wait for public transportation, pay your fare, and be required to sit in a special section or forced to give up your seat to someone else. Well, that is what it was like in Montgomery, Alabama, in 1955. The white majority in the city had constructed a complicated system for riding the bus all in accord with the 1896 Supreme Court decision *Plessy v. Ferguson*, which held that state facilities could be "separate" for white and black citizens as long as they were "equal" in quality. White citizens always rode in front; if there were no whites on the bus, those seats were left vacant. Black citizens sat or stood in the back of the bus. The middle of the bus was not assigned to either race. If there was no demand from the white customers, black customers could ride there. But if a black rider was seated in the middle and a white rider demanded the seat, the black rider was required by Alabama law to move to the back of the bus.

On December 1, 1955, Rosa Parks, a forty-two-year-old African-American seamstress, sat in the middle of the bus, but as the bus filled up, a white patron demanded her seat. Three other black riders vacated their seats, but Parks refused to move. The driver told Parks that she had to move to the back. When she did not move, he had her arrested.

Parks later explained: "I simply decided that I would not get up. I was tired, but I was usually tired at the end of the day, and I was not feeling well, but then there had been many days when I had not felt well. I had felt for a long time, that if I was ever told to get up to a white person could sit, that I would refuse to do so."

Parks had decided that Alabama's bus segregation law was unfair, but the courts offered her no justice. Although the U.S. Constitution guarantees citizens a trial by a jury of their peers before an impartial judge, such was not the case for blacks in the South in 1955. The state judges were all local white lawyers who, like the white majority, supported the "separate but equal" doctrine. They implemented the laws and regulations of the white



▲ Mrs. Rosa Parks is fingerprinted in Montgomery, Alabama, in February 1956 for refusing to give up her seat to a white passenger and move to the back of the bus.

state legislatures and the white citizens' unfair election laws, blacks were almost from voting. Thus, they had little say in ministering the laws they had to live with.

Rosa Parks lost in the courts, but she was chosen from the voting rolls. She was white. No wonder that Parks was quickly losing the Alabama transportation law pay a \$14 fine. As a result of this case and eventually had to leave the South.

Rosa Parks lost in the courts, but she was chosen from the voting rolls. She was white. No wonder that Parks was quickly losing the Alabama transportation law pay a \$14 fine. As a result of this case and eventually had to leave the South.

Rosa Parks lost in the courts, but she was chosen from the voting rolls. She was white. No wonder that Parks was quickly losing the Alabama transportation law pay a \$14 fine. As a result of this case and eventually had to leave the South.

Summary

1. Throughout the world democracy has become increasingly prevalent. The United States is often viewed as a model of the democratic process. However, the formal institutions of a democracy do not by themselves guarantee the protection of individual liberties.
2. The term *democracy* means government by the people, either directly or through elected representatives. Citizens in a democracy choose their leaders freely from among competing groups and individuals. In highly developed democracies, voters are free to propose public policy options and join groups that promote those options. In contrast, an authoritarian government deprives citizens of the freedom to participate in political life.
3. In a direct democracy, the people as a whole make policy decisions. In an indirect democracy, voters

designate a few people to represent their interests, to meet in a legislative body and make decisions on behalf of the entire citizenry. Such a system of representative democracy makes it possible for a larger and more diverse group of people to govern themselves.

4. Freedom and equality are core values of American democracy, but they often pull in contradictory directions. The more freedom citizens have, the less equality they are likely to achieve, and vice versa. Each of these ideals can require that government take no action. Conversely, they can each require governmental intervention to protect individual freedom or guarantee equal treatment. The desire for order and stability places limits on freedom and equality.

5. A democracy must strike a balance between the majority and the rights of the minority. The full democracies, the people reach a balance, persuasion, campaigning, pluralist system those in the minority based on particular interests and ideas by allying with other groups.

6. In a democracy, all citizens must have the opportunity to influence government action. This is achieved through universal participation in the government or lobbying action.

7. A republic places political decisions in the hands of a few people chosen by the citizens.