

# THE AMERICAN DEMOCRACY

1994  
UPDATE EDITION



Thomas E. Patterson

Second Edition

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# THE AMERICAN DEMOCRACY

SECOND  
EDITION

1994  
UPDATE EDITION

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## THE AMERICAN DEMOCRACY

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## ABOUT THE AUTHOR

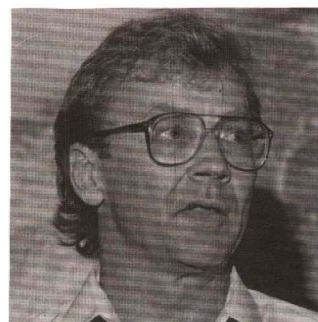
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**T**homas E. Patterson is a professor and past chairman of the department of political science in the Maxwell School of Citizenship at Syracuse University. Raised in a small Minnesota town near the Iowa and South Dakota borders, he was educated at South Dakota State University and the University of Minnesota, where he received his Ph.D. in 1971.

In 1991–92 he was Visiting Professor in the Lombard Chair in the Kennedy School of Government at Harvard University. He has also held teaching positions in Germany and Great Britain.

Patterson is the author or coauthor of several books and dozens of articles, most of them based on his research of political communication. He has held grants from the National Science Foundation, the Ford Foundation, the Mellon Foundation, and the Markle Foundation. His most extensive research project culminated in *The Mass Media Election*, which was named an Outstanding Academic Book, 1980–81, by *Choice*. His current writing projects include a six-country study of political journalists, and a book on the presidential selection process.

He lives with his two grade-school children, Alex and Leigh, who like his story-telling and tolerate his book-writing.



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# PREFACE FOR THE INSTRUCTOR

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**P**olitical science has been served through the years by some very good introductory American government texts. These texts have been distinguished not so much by the raw material they contain as by their ability to hold the interest of students and help them to integrate the wide array of concepts, facts, and principles that make up the study of American government. I recall to this day the enthusiasm I felt, as an undergraduate, in reading V. O. Key's *Politics, Parties, and Pressure Groups*. Last published in the 1960s, Professor Key's wonderful text was chock-full of ideas, of politics, and of a lucid prose that belied the laborious effort that is required to turn the raw materials of American government into a compelling whole.

This book rests on my belief that it is possible to be comprehensive without being encyclopedic. Although political scientists have developed a deep understanding of American government, this knowledge exists as a set of more or less unrelated observations. When presented in this form in a text, fact is piled upon fact and list upon list, which is almost guaranteed to dull students' interest and thought. I have tried to follow the cardinal rule of always telling students where they are in the text, why they are there, and where they are going.

I also believe that it is possible to be precise without being pedantic. The keys to understanding American government are found, not in abstruse ideas or methods, but in a deep understanding of the broad tendencies that have long characterized the American political experience—namely:

- that American politics since the nation's earliest years has been shaped by a set of governing ideas, which, although subject to dispute in practice, have

- served the American people as a common bond and source of political action;
- that the American political system is characterized by an extreme fragmentation of authority that has far-reaching implications for the exercise of power and the making of public policy;
  - that the United States has an extraordinary range of interests of all kinds—economic, religious, ethnic, regional, and so on—and that this diversity is fundamental to the nature of political conflict and consensus in America;
  - that issues which in other countries are fought out through elections and in legislatures are also fought out in America through judicial action and as claims of individual rights; and
  - that Americans tend to draw sharp distinctions between what is political, and therefore to be decided in the public arena, and what is economic, and therefore beyond the reach of political majorities under normal conditions.

These ideas are introduced in the first chapter and are discussed frequently in subsequent chapters as tendencies that help to explain a wide range of political actions.

### *Pedagogical Features*

This text has two innovative pedagogical features, each of which represents a deliberate effort to respond to the instructional needs of those who teach and take the basic course:

1. Early in the writing of the first edition of this text, I concluded that it would be enormously helpful if a way could be found to bring into each chapter the judgment of those political scientists who teach the introductory course year in and year out. Any insights for improving the pedagogical value of an introductory text are concentrated among these instructors. This recognition led me to undertake what was, as far as I have been able to determine, the most thorough review process ever undertaken for a new American government text.

We went beyond the normal process of having the draft chapters reviewed by a select number of expert scholars who are recognized experts in the subject matter. After these reviewers had commented on the manuscript, we revised each chapter and sent it out to a dozen or so faculty members at U.S. colleges and universities of all types—public and private, large and small, four-year and two-year. These political scientists, 213 of them in all, had well over a thousand years of combined experience in the teaching of the introductory course. Each of them was asked, in effect, two questions about the chapter they read: “How well does it instruct your students in what they need to know about its subject?” and “How can it be changed so that it better serves your students’ needs?”

They had plenty of ideas. For example, after graciously noting that “it is unusual for authors to be interested in the thinking of those of us on the ‘frontline’ of undergraduate teaching,” a professor at a state university suggested three major adjustments in the chapter he had read. I spent the better part of two years rewriting the text in response to these and other reviewers’ suggestions.



2. This text has twenty-seven shorter chapters rather than the twenty or so longer ones found in other introductory American government texts. The instructional purpose of this innovation is to give a greater degree of coherence to each chapter. Rather than a single chapter on political parties, for example, I have written one chapter on U.S. party organizations and another on the American party system. When a text's chapters are few in number—one each on parties, Congress, the Constitution, and so on—they tend to lack focus. When more and shorter chapters are used, they can convey a clearer message. My chapter on the American party system, for example, looks squarely at two-partyism: why it exists in America and how fully it channels political competition and choice. These points are stated in the chapter's introduction, developed in the chapter's body, and restated in the conclusion, thus driving home to students their central importance.

This organization of the material permits frequent use of the narrative form of writing, which research has shown to be a superior method of teaching students a "soft" science such as politics. Each chapter contains plenty of facts, but they are always presented in context. If students soon forget many of the details, as they invariably will, they will at least remember the main points.

I believe that most political science professors will find that a text consisting of shorter chapters is a more flexible and effective teaching tool. Each chapter can be read in an hour or less, and thus each lecture's reading assignment can reasonably consist of a full chapter. My experience with teaching the introductory course suggests that many students find it unrewarding to be assigned just part of a chapter at a time because that approach makes it very difficult for them to see the chapter's argument in its entirety. This text makes it easier for students to master each chapter in a single reading.

## *Innovations in the Second Edition*

The response to the first edition of this book was extremely gratifying. The text has been adopted for use at more than 200 American colleges and universities. Moreover, the instructors who adopted the book have stayed with it. A sample survey by the publisher in the book's second year indicated that 95 percent of instructors who had used it the previous year were using it again.

Although the first edition was very favorably received, I have chosen to revise the book substantially for the second edition. I believe that the second-edition changes are the critical one in the life of a text because these revisions can take into account the experiences of those instructors who have actually used the book in the classroom. The thirty-six reviewers of the second edition included a significant proportion of instructors who had adopted *The American Democracy* for use by their students.

Our review process included a full evaluation of the text and resulted in a thorough updating of every chapter. The text was also reorganized slightly at the suggestion of reviewers: the presidency and Congress, which were discussed in three chapters each in the first edition, are discussed in two chapters each in this edition. In addition, a few chapters—those on federalism, representative democracy, civil rights, public opinion, voting, social welfare policy, and

foreign and defense policy—were substantially reworked. The chapter on foreign and defense policy, for example, has been completely revised to reflect the great changes that have taken place in world politics since the text's first edition. The new chapter gives as much attention, for example, to the economic dimension of national security as it does to the military dimension. International trade, Japan, multilateralism, the European Community, foreign assistance, and the Middle East are among the subjects that receive substantially more coverage in this edition than in the previous one.

All chapters include two new boxes, one entitled "The Media and the People" and the second entitled "Critical Thinking." These boxes are based on the same philosophy that guided the first edition. All boxed inserts in this text have the purpose of encouraging students to step back and think about what they have been reading. The boxes are not mere fillers or diversions; they are part of a deliberate instructional strategy. The text now presents five kinds of boxed inserts:

- *Dialogues.* At the end of each of the book's seven parts is a pair of brief original essays. These essays, written by some of America's best political scientists, are intended to direct the student's attention back to a recurring issue discussed in the section's chapters. For example, Part Six features one-page essays by Professors Hugh Heclo and Martin Shapiro on the question, "Is Too Much Public Policy Decided by Nonelected Officials in the Bureaucracy and Judiciary?" The authors of the other original essays are Benjamin R. Barber, Morris Fiorina, Louis Fisher, Richard Flathman, Linda L. Fowler, Stephen D. Krasner, Michael Malbin, Jane Mansbridge, Bruce Russett, Robert H. Salisbury, Frank Sorauf, and James Sundquist.
- *How the United States Compares.* Each chapter has a box that compares the United States with other countries on some aspect of politics emphasized in the chapter. American students invariably gain a clearer perspective and a deeper understanding of their own country's politics when they recognize how it resembles and how it differs from politics elsewhere.
- *Analyze the Issue.* Each chapter contains several of these boxes, which ask students to relate current issues or personal experiences to material presented in the chapter—an intellectual exercise that is designed to promote both better scholarship and better citizenship.
- *The Media and the People.* The world of everyday politics is largely beyond our direct observation. We depend on the media to inform us about this world, and these boxes—one in each chapter—are intended to give students a better understanding of the limits of this media-created reality.
- *Critical Thinking.* Each chapter contains a box that asks students to analyze and integrate material presented in the chapter. The purpose is to encourage students to think critically and to make connections between concepts, research findings, and current issues of American politics.

Finally, the second edition contains a new appendix: a chapter-length discussion of state and local politics that is provided for the convenience of those instructors who include a section on state and local politics in their national government course.



## *Ancillary Package*

This text has the standard ancillary materials—an instructor's manual, a study guide, and a test bank. The test bank is available in printed form or on computer disk: IBM (5.25- and 3.5-inch disks), Macintosh, and Apple.

There are also special ancillaries. Unlike the "canned" videotapes that accompany most American government texts, we have developed a set of tapes that are keyed specifically to sections of this text. The videotapes are based on an exclusive agreement with the *MacNeil-Lehrer News Hour*; they focus on current issues of American politics and will be updated as important new issues and controversies emerge. The tapes are designed to stimulate in-class discussion, whether in a lecture or a study-group format.

Students who use this text can also obtain a special subscription price on *The Washington Post National Weekly Edition*. Like many other instructors, I sometimes assign a source of information about current events as required or recommended reading in my undergraduate courses. The weekly edition of the *Post* is an effective option because it is devoted almost exclusively to politics and includes commentary and analysis by some of the country's best journalists, including David Broder, Robert Woodward, George Will, and Meg Greenfield.

## *Acknowledgments*

A great many people contributed to the first and second editions of this book. They include the scholars who gave generously of their professional time and knowledge, the office staff and research assistants who with skill and good humor contributed to every phase of preparation, and the editorial people who offered good judgment and wise counsel in the making of key decisions. I owe a major debt to all who helped.

Bert Lummus, my editor, deserves a very special thanks. He initiated the first edition of this book by asking about my interest in writing it, and he stayed with the project throughout its six years of preparation. He approached the second edition with the same dedication. His keen judgment, steady encouragement, and endless patience have improved every page of this book. No editor could have been more helpful, and I am pleased to say that our years of working together produced a friendship as well as a book. Cecilia Gardner and David Damstra also had a major impact on the book; Cele carefully edited and David meticulously produced every line of every page of both editions. In addition, the following McGraw-Hill people worked on one or both editions and deserve my thanks: Peter Labella, Joan O'Connor, Kathy Porzio, Greg Berge, William Barter, Safra Nimrod, and Barbara Salz.

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*Thomas E. Patterson*

## PREFACE FOR THE STUDENT: A GUIDED TOUR OF THE AMERICAN DEMOCRACY

This book describes the American political system, which is one of the most interesting and most intricate in the world. The discussion is comprehensive; a lot of information is packed into each chapter. No student could possibly remember every tiny fact or observation that each chapter contains, but I believe that the main points of discussion are within your grasp if you are willing to reach for them. And once you have acquired these major points, then the smaller points will also be more readily understood.

The text has several features that will help you to understand the major points of discussion. Each chapter has, for example, an opening story that illustrates a central theme of the chapter. This story is followed immediately by a brief summary of the chapter's main ideas.

The "guided tour" below describes further how the organization and the special features of the book can help you in your effort to develop a basic understanding of the American political system.

Thomas E. Patterson

### THE TWO-PARTY SYSTEM: DEFINING THE VOTERS' CHOICE

11  
CHAPTER

*Political parties created democracy and . . . modern democracy is unthinkable save in terms of the parties.*

E. E. Schattschneider<sup>1</sup>

#### OPENING ILLUSTRATION

An illuminating narration of a compelling event introduces the chapter's main ideas.

#### MAJOR CONCEPTS

The first occurrence of a major concept is signaled by **bold type** and accompanied by a concise definition. A complete list of these concepts is found at the end of each chapter, as well as in the Glossary at the back of the book.

They were the kind of strange bedfellows that American politics regularly produces. One of them stood for gun control, busing, and an end to the death penalty and proposed that the United States terminate its Star Wars project, MX missile construction, and aid to the Nicaraguan rebels. His running mate held the opposite position on each of these issues. They were the 1988 Democratic ticket: Michael Dukakis of Massachusetts and Lloyd Bentsen of Texas.

The Dukakis-Bentsen partnership was a product of the country's two-party system, which compels candidates and voters with diverse opinions to find common ground. Because the Republican and Democratic parties have dominated U.S. elections for so long and are the only parties with any realistic chance of acquiring political control, Americans nearly take their **two-party system** for granted. However, most democracies have a **multipart system**, in which three or more parties have the capacity to gain control of government separately or in coalition. Even democracies that have what is essentially a two-party system typically have important smaller parties as well. For example, Great Britain's Labour and Conservative parties have dominated that nation's politics since early in this century, but they have had competition from the Liberal party and, more recently, the Social Democrats.

America's two-party system has important consequences for the nation's

<sup>1</sup> E. E. Schattschneider, *Party Government* (New York: Rinehart, 1942), 1.

This chapter examines bureaucratic policymaking from the standpoint of the ways in which agencies acquire the power they need in order to maintain themselves and their programs. The chapter shows that career bureaucrats necessarily and naturally take an "agency point of view," seeking to promote their agency's objectives. Moreover, they have substantial resources—expertise, group support, and presidential and congressional backing—that help them to promote their agency's goals. The three constitutional branches of government impose a degree of accountability on the bureaucracy; but the U.S. system of government, with its fragmented authority, frees bureaucrats from tight control. The main points discussed in this chapter are the following:

- ★ *Because of America's diversity and fragmented system of government, bureaucrats must compete for the power required to administer programs effectively.*
- ★ *Bureaucrats are committed to the goals of their particular agencies.* Their expert knowledge, support from clientele groups, and backing by Congress and the president help them to promote agency goals.
- ★ *Agencies are subject to control by the president, Congress, and the judiciary, but these controls place only general limits on the bureaucracy's power.* A major reason agencies are able to achieve power in their own right is that Congress and the president often resist each other's attempts to control the bureaucracy.
- ★ *The bureaucracy's power is not easily reconciled with the principle of self-government.* Bureaucrats are not directly accountable to the people through elections.

## MAIN POINTS

The chapter's three or four main ideas are summarized in the opening pages.

political party machines in cities where residents were not personally known to poll watchers. However, the extra effort involved in registering placed an added burden on honest citizens. Turnout in U.S. elections declined steadily after registration was instituted.<sup>7</sup>

Although other democracies also require registration, they place this responsibility on government. In European nations, public officials have the duty to enroll citizens on registration lists. The United States—in keeping with its individualistic culture—is the only democracy in which registration is the individual's responsibility.<sup>8</sup> In addition, registration laws are established by the state governments, and some states make it relatively difficult for citizens to qualify. Registration periods and locations are usually not highly publicized, and many citizens simply do not know when or where to register.<sup>9</sup> Eligibility can also be a problem. In most states, a citizen must establish legal residency by living in the same place for a minimum period, usually thirty days but as long as fifty days, before becoming eligible to register.

States with a tradition of lenient registration laws generally have a higher turnout than other states. Maine, Minnesota, and Oregon allow people to register at their polling place on election day, and these states rank high in voter turnout. Those states that have erected the most barriers are in the South, where

<sup>7</sup> Philip E. Converse, "Change in the American Electorate," in Philip E. Converse and Angus Campbell, eds., *The Human Meaning of Social Change* (New York: Russell Sage Foundation, 1972), 281; see also Stanley Kelley, Jr., Richard E. Ayres, and William G. Bowen, "Registration and Voting: Putting First Things First," *American Political Science Review* 61 (June 1967): 359–379. For insights into the impact on electoral behavior of another reform, the Australian ballot, see Jerrold D. Rusk, "The Effect of the Australian Ballot Reform on Split Ticket Voting: 1876–1908," *American Political Science Review* 64 (December 1970): 1220–1238.

<sup>8</sup> Ivor Crewe, "Electoral Participation," in David Butler, Howard R. Penniman, and Austin Ranney, eds., *Democracy at the Polls* (Washington, D.C.: American Enterprise Institute, 1981), 249.

<sup>9</sup> Philip E. Converse with Richard Niemi, "Non-voting among Young Adults in the United States," in William J. Crotty et al., eds., *Political Parties and Political Behavior* (Boston: Allyn & Bacon, 1971), 456.



Near-empty polling stations are a fact of political life in America. Less than 50 percent of voting-age citizens turn out to cast their ballots in nonpresidential election years. (Rob Crandall/Picture Group)

### ANALYZE THE ISSUE

#### Voter Turnout Incentives

Some countries impose a fine for not voting in elections and have a significantly higher rate of voter turnout than the United States. Would you favor a fine on nonvoters in the United States? Why or why not? Are there other things that some democracies do as a way of increasing voter turnout, such as holding elections on Sundays, that you would support for the United States?

power that they need if it cannot be understood in the American political system,

Other democracies, do not have a party's platform or the same party do not have a platform. They are elected separately, and deal with largely after the fact and power wielding. Precedence, but so will aim on both the presidential system produces not a government in which

they must seek support from Congress; if not even tomorrow. In other words, the basis for the lead paragraphs of

## "ANALYZE THE ISSUE" BOXES

Boxes in the margins ask searching questions in order to stimulate you to analyze what you are reading.



## • HOW THE UNITED STATES COMPARES

## WOMEN'S EQUALITY

Although conflict between groups is universal, the nature of the conflict is often particularized. Racial conflict in the United States cannot readily be compared with, say, religious conflict in Northern Ireland. The one form of inequality common to all nations is that of gender: nowhere are women equal to men in law or in fact. But there are large differences between countries. The 1988 study by the Population Crisis Committee referred to in Chapter 1 ranked the United States third overall in women's equality, behind only Sweden and Finland. The rankings were based on five areas—jobs, education, social relations, marriage and family, and health—where U.S. women had an 82.5 percent rating compared with men.

The inequality of women is also indicated by their lack

of representation in public office. A Royal Commission in Canada compared the national legislatures of industrialized democratic countries in terms of the percentage of women members. The five countries that ranked highest, ranging from 21 percent to 34 percent female lawmakers, were Iceland, Denmark, Sweden, Finland, and Norway. Canada, at 13 percent, was clustered with several western European countries, including Germany and Italy. The United States ranked low—only 6 percent of the members of Congress are women. This percentage is in the same range as that of Spain, Britain, and France. The only country that ranked significantly lower than the United States was Japan, where women constitute only 1 percent of national legislators.

## "HOW THE UNITED STATES COMPARES" BOX

Each chapter has a box that compares the United States with other countries in regard to a major political feature.

Congressional support for the ERA was an outgrowth of the 1960s civil rights movement and of the changing demands of women.<sup>20</sup> Families were smaller, and more women were entering the labor force.<sup>21</sup> Proponents of the ERA argued that discrimination on the basis of sex could not be distinguished between men and women were maintained was opposed by traditionalists, who argued that the legal protections for women, mainly in the areas of conditions, and family life.<sup>22</sup> A 1982 Gallup survey Americans (including 53 percent of men) favored opposed, and 9 percent had no opinion. Nevertheless the support of a majority of state legislators in the ratification. The proposed amendment was three states for ratification came and went in 1982. The state level for ratification were concentrated in the South, where women are stronger.<sup>23</sup>

*Equality of rights under the law shall not be denied or abridged by the United States*

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PART FOUR • POLITICAL ORGANIZATION

## • CRITICAL THINKING

## SHOULD PACS BE ABOLISHED?

American elections have changed greatly in recent years, and one of the most significant and controversial changes has been the increasingly large role played by interest groups through their political action committees (PACs). PACs now provide about a third of all funds contributed to congressional candidates, and their prominence in state and local campaigns is growing.

Most of the criticisms of PACs have been directed at two developments. The first is the tendency of PACs to concentrate their spending on incumbents. The advantages to PACs of an incumbent strategy are obvious. Incumbents usually win, so in backing incumbents PACs are taking less risk than if they back challengers. In addition, a PAC can target incumbents who work in policy areas that are of particular concern to the interest group that the PAC represents. For example, the work of Congress is done primarily in committees, such as the House and Senate banking committees. Banking industry PACs, by focusing on members of these committees, are assured of making contact with the legislators who have the biggest say over policies that affect banking interests.

A second source of concern about PACs is the activities of "independent" PACs. These PACs are not subject to the same contribution limitations as other PACs, provided that they do not directly coordinate their activities with those of a candidate. They have had a prominent role in presidential election campaigns because their expenditures do not count against the expenditure limits imposed on the Republican and Democratic nominees (see Chapter 18). Independent PACs

have spent more than \$10 million in each of the recent presidential campaigns, primarily on behalf of the Republican nominees. George Bush benefited from independent PAC support in 1988 in the form of a televised commercial that received widespread attention and apparently hurt his opponent, Massachusetts Governor Michael Dukakis. The commercial portrayed a convicted felon named Willie Horton, who, while on weekend furlough from a Massachusetts prison under a program supported by Dukakis, brutalized a Maryland couple. Some analysts believe that the Willie Horton ad was a turning point in the 1988 race; Dukakis had been ahead in the polls before the commercial was aired.

PACs are favored by those who believe that interest groups should have a large role in campaigns and who prefer a PAC-based system of campaign finance to the previous system. Before the laws were changed in the 1970s to allow PACs to play a larger role in campaign finance, much of the money in elections came from "fat cats"—wealthy contributors who gave thousands, and in some cases millions, of dollars to candidates. No PAC can give more than \$5000 to a candidate in a campaign, and PACs get their money from voluntary donations from small contributors. In a sense, PACs allow thousands of like-minded people to pool their contributions in order to influence election campaigns.

Do you think PACs are a problem? If so, should PACs be abolished or simply regulated more closely? If you were to limit the role of PACs, what restrictions would you place on them?

## Women's Legal and Political Gains

Although the ERA did not become part of the Constitution, women's rights to the forefront at a time when the courts were contributing significantly to the legal

<sup>20</sup>Cynthia Harrison, *On Account of Sex: The Politics of Women* (University of California Press, 1988).

<sup>21</sup>See Suzanne M. Bianchi and Daphne Spain, *American Women* (Sage Foundation, 1986).

<sup>22</sup>See Janet K. Bolen, *The Politics of the Equal Rights Amendment*.

<sup>23</sup>See Jane Mansbridge, *Why We Lost the ERA* (Chicago: University Press, 1982).

## "CRITICAL THINKING" BOX

Each chapter has a box that asks you to critically analyze and integrate material presented in the chapter.

## Assessing PACs: The Corporate Advantage

More than 40 percent of all PACs are associated with corporations (see Table 14-1). Examples include the Ford Motor Company Civic Action Fund, the Sun Oil Company Political Action Committee (SunPAC), and the Coca-Cola PAC. The next largest group of PACs consists of those linked to noneconomic groups (that is, public-interest, single-issue, and ideological groups), such as the liberal People for the American Way and the conservative NCPAC (National Conservative Political Action Committee). Ranking third are PACs tied to trade and professional associations, such as AMPAC (American Medical Association) and R-PAC (National Association of Realtors). Labor unions were once the major source of group contributions, but they now rank fourth.



## • THE MEDIA AND THE PEOPLE

CENSORSHIP AND MILITARY OPERATIONS:  
THE CASE OF THE GULF WAR

The United States' participation in the Persian Gulf war was characterized by substantial restrictions on the press. Military authorities designated a media pool, a small number of journalists allowed to act as stand-ins for the full press corps. They also placed severe restrictions on the journalists' travel and required reporters to have a military escort; allowed journalists to interview only selected soldiers and usually had a superior officer standing nearby as the interviews took place; and subjected all news reports to review by military censors. Journalists critical of the Gulf war were kept out of the media pool and, to further ensure favorable coverage, the U.S. government flew hometown reporters to Saudi Arabia, apparently on the assumption that they would be more likely to write human interest stories about the troops than hard-news stories about the war itself. The press was also kept away from sites that might have produced controversial news reports. For example, at one point U.S. pilots—in what one of them described as “a turkey shoot”—bombed and strafed Iraqi troops who had left their battle positions and were in full retreat from Kuwait; the U.S. military buried the dead in a mass grave before allowing reporters to go to the scene.

The American press protested the military's tight censorship, but in a relatively mild way. A suit by the

*Nation* and several other liberal publications was not joined by major newspapers or the television networks. The suit charged that the censorship policy had no legitimate national security purpose and that it imposed an unconstitutional prior restraint on freedom of the press. The Justice Department's brief countered that the policy was designed to protect U.S. forces in the Gulf and would be discontinued when conditions in the war zone permitted. The suit was heard after the ground war had ended and after the press restrictions were lifted. Because the restrictions were no longer in effect, a federal judge declared the question moot.

Opinion polls taken during the Gulf war indicated that the large majority of Americans approved of the government's censorship of the press. Most people agreed with the government's position that censorship was necessary in order to protect the troops in the field. According to a March survey by the Times Mirror Center, a 2-to-1 majority said that “military censorship is more important than the media's ability to report important news.” The same survey indicated, however,



## “THE MEDIA AND THE PEOPLE” BOX

Each chapter has a box that informs you about a major topic pertaining to the media.

## SUMMARY

A short discussion, organized around the chapter's main points, summarizes each chapter's content.

## Summary

In their search for personal liberty, Americans added the Bill of Rights to the Constitution shortly after its ratification. These amendments guarantee certain political, procedural, and property rights against infringement by the national government. Freedom of expression is the most basic of democratic rights. People are not free unless they can freely express their views. Nevertheless, free expression may conflict with the nation's security needs during times of war and insurrection. The courts at times have allowed government to limit expression substantially for purposes of national security. For the past twenty-five years, however, the courts have protected a very wide range of free expression in the areas of speech, press, and religion.

The guarantees embodied in the Bill of Rights originally applied only to the national government. Under the principle of selective incorporation of these guarantees into the Fourteenth Amendment, the courts extended them to state governments, though slowly and unevenly. In the 1920s and 1930s, First Amendment guarantees of freedom of expression were given protection from infringement by the states. The states, however, continued to have wide discretion in criminal proceedings until the

early 1960s, when most of the fair-trial rights in the Fourth through Eighth amendments were given federal protection.

“Due process of law” refers to legal protections that have been established to preserve individual rights. Due process is of two kinds: procedural and substantive. The former consists of procedures or methods (for example, the opportunity of an accused person to have an attorney present during police interrogation) designed to ensure that an individual's rights are respected; the latter consists of legal proceedings that lead to reasonable and fair results (for example, the conditions of imprisonment of an individual convicted of a crime).

Civil liberties are not absolute but must be balanced against other considerations (such as national security or public safety) and against one another when rights come into conflict. The judicial branch of government, particularly the Supreme Court, has taken on much of the responsibility for protecting and interpreting individual rights. The Court's positions have changed with time and conditions, but the Court has generally been more protective of and sensitive to civil liberties than have elected officials or popular majorities.

## Major Concepts

Bill of Rights  
civil liberties  
clear-and-present-danger test  
establishment clause  
exclusionary rule  
freedom of expression

free-exercise clause  
preferred position (of First Amendment rights)  
prior restraint (of the press)  
procedural due process  
selective incorporation  
substantive due process

## Suggested Readings

Abraham, Henry. *Freedom and the Court*, 5th ed. New York: Oxford University Press, 1988. A general survey of judicial interpretations of civil liberties.

Bodenhamer, David J. *Fair Trial: Rights of the Accused in American History*. New York: Oxford University Press, 1991. A comprehensive historical survey of the rights of the accused.

Haiman, Franklyn S. *Speech and Law in a Free Society*. Chicago: University of Chicago Press, 1981. An assessment of the primacy of speech in a free society.

Halpern, Stephen C., ed. *The Future of Our Liberties*. Westport, Conn.: Greenwood Press, 1982. A collection of essays that consider how the freedoms enumerated in the Bill of Rights may be affected by developing conditions in American society.

Lewis, Anthony. *Gideon's Trumpet*. New York: Random House, 1964. A summary of the case of Clarence Gideon and its effects on the right of persons accused of crime to legal counsel.

Mason, Alpheus T. *The Supreme Court: Palladium of*

## KEY TERMS

A list of the chapter's major concepts facilitates review.

## SUGGESTED READINGS

Annotated references encourage further pursuit of some of the best works of political science, both classic studies and recent research.