

We the People

An Introduction to American Politics

BENJAMIN GINSBERG

The Johns Hopkins University

THEODORE J. LOWI

Cornell University

MARGARET WEIR

University of California at Berkeley

THIRD EDITION



W • W • NORTON & COMPANY • NEW YORK • LONDON

Copyright © 2001, 1999, 1997 by W. W. Norton & Company, Inc.

All rights reserved.

PRINTED IN THE UNITED STATES OF AMERICA

Illustration credits and copyrights are given on page A67, which constitutes an extension of this copyright page.

For information about permission to reproduce selections from this book, write to Permissions, W. W. Norton & Company, Inc., 500 Fifth Avenue, New York, NY 10110.



Editor: Stephen Dunn

Project Editor: Christopher Miragliotta

Editorial Assistant & Photo Researcher: Aubrey Anable

Production Manager: Ruth Dworkin

Text Design: Jack Meserole/Joan Greenfield

Figures: John McAusland

The text of this book is composed in Sabon with the display set in Myriad.

Composition by TSI Graphics

Manufacturing by Quebecor/Hawkins



Library of Congress Cataloging-in-Publication Data
Ginsberg, Benjamin.

We the people: an introduction to American politics / Benjamin Ginsberg, Theodore J. Lowi, Margaret Weir.—3rd ed.

p. cm.

Includes bibliographical references and index.

ISBN 0-393-97628-9

1. United States—Politics and government. I. Lowi, Theodore J.

II. Weir, Margaret, 1952– . III. Title.

JK271.G65 2001

320.473—dc21

00-068115

W. W. Norton & Company, Inc., 500 Fifth Avenue, New York, NY 10110
www.wwnorton.com

W. W. Norton & Company Ltd., Castle House, 75/76 Wells Street, London W1T 3QT

2 3 4 5 6 7 8 9 0

We the People

An Introduction to American Politics

THIRD EDITION

TO
Sandy, Cindy, and Alex Ginsberg
Angele, Anna, and Jason Lowi
Nicholas Ziegler

Preface

We the People is a milestone in a collaboration that began between Theodore J. Lowi and Benjamin Ginsberg twenty years ago. The first result of that collaboration, *American Government: Freedom and Power*, was first published in 1990. With its most recent edition, we and the publishers feel warranted in expressing satisfaction that its historical/institutional method has been confirmed by its reception among the teachers who have adopted it and the students who have read it.

But unlike political leaders, textbooks should not try to be all things to all people. Endurance is most often ensured by recognition of one's limitations. Lowi and Ginsberg increasingly came to feel that *American Government* needed a sibling to address a number of themes and problems that have become much more central to American politics since *American Government* was conceived in the early 1980s. For a good text should be both timeless and timely: It should present principles whose value goes beyond the immediate events of the day. At the same time, however, it should present students with the principles they need to help elevate their understanding of contemporary events.

We viewed this process as a challenge rather than as a chore. The first step Lowi and Ginsberg took to meet the challenge of developing a new text was to invite a third author to join the enterprise: Margaret Weir, an expert on social policy in the United States and Europe. Weir brought with her a strong background in urban politics as well as the benefit of several years of teaching experience at Harvard and the University of California at Berkeley, where she now teaches.

From the start, the three of us agreed that this younger sibling would be titled *We the People* and would focus on three sets of issues. The first of these is the question of who is and who is not part of the American political community. This question has been the source of enormous conflict throughout American history and has become salient once again as events at home and throughout the world have brightened the light of democracy, exposing for everyone to see the unreasonable restrictions on who are "we the people," how should "we the people" be defined, and what powers, rights, and obligations "we the people" should have. Although the United States has so far experienced comparatively little conflict over the basic institutions and

practices of government, and although our institutions have evolved in a roughly democratic direction, the struggle over the scope and inclusiveness of the American political process has often been a bitter one, and neither the struggle nor the bitterness is over.

The original American political community consisted of a rather limited group of white male property holders. Over the ensuing two centuries, “we the people” became a larger and more inclusive body as a result of such forces as the abolitionist movement, the women’s suffrage movement, and the civil rights movement. This expansion of the political community was marked by enormous conflicts involving questions of race, gender, social class, and religious identity. Today, these conflicts continue in the form of struggles over such issues as affirmative action, welfare reform, abortion, the gender gap, the political mobilization of religious groups, and the rise and fall of minority voting districts. These themes are raised in Chapter 2 of *We the People* and are explored further throughout the book.

But regardless of our country’s spotty record, one American feature has been and remains the envy of the entire world: Expansion of our political community *has* taken place, and it has happened without having to create new institutions, rules, or procedures. Our democracy is no crustacean that has to shed its structure as it grows.

The second set of issues that we focus on concerns American political values. The American nation is defined not only by its form of government but also by a set of shared beliefs and values, the most basic of which are liberty, equality, and democracy. Although these can be located in antiquity, Americans gave them new vitality and credibility in our founding documents—the Declaration of Independence and the Constitution, which transformed ancient and abstract principles into operating structures and rules for the new Republic. Although the path has deviated and wrong turns have been taken, the general direction of America has been one worthy of pride—a pride we authors share with virtually all of the American people. But our job as authors is to recognize the gap between ideals and realities and to treat the gap honestly so that our students come to understand that a good citizen is a critical citizen, one whose obedience is not unconditional. Liberty, equality, and democracy are concepts that link all the chapters of our book. They are also criteria against which to measure and to judge all aspects of governmental and political performance.

Finally, *We the People* addresses a pedagogical question: Why should Americans be engaged with government and politics at all? For the entire first century and more of American history under the Constitution, Americans were relatively heavily involved in political life, as activists or as active spectators. Politics was a kind of entertainment, a defining aspect of community life. Politics in America was interesting even to those who had not yet been made full members of the political community. As the size of all governments, especially the national government, began to grow after World War I, Americans by all appearances still took their politics seriously, and the scope of their interest seemed to expand from campaigns and elections into public policy issues keeping pace with the expansion of government and of government programs.

During the 1960s and 1970s, American students were heavily engaged with politics, many seeing it, quite realistically, as a matter of life and death. Even during the early 1980s, when *American Government: Freedom and Power* was being planned, it was our assumption that political engagement needed guidance—but that it was *there* to be guided. It hardly seemed necessary to explain to students why they should take politics seriously, as observers as well as activists.

But the involvement of the American people in political life has been declining, and students have been increasingly willing to ask why they should be interested in politics at all. We are deeply troubled by this trend and committed this book to its reversal. Our chapters are introduced by discussions that show where students fit into the materials to be addressed by that chapter and why they should take a personal, indeed selfish, interest in the outcomes of government. For example, our discussion of the media opens with the issues of press freedom faced by college newspapers. Our chapter on civil rights begins with an evaluation of affirmative action programs in college admissions. The opening pages of our discussion of federalism deal with interstate differences that affect college students. Our hope is to make politics interesting to students by demonstrating that their interests are at stake—that their forebears were correct in viewing politics as a matter of life and death.

In this Third Edition, we are freshly dedicated to the goal of getting students to see themselves not only as citizens but as citizens in the Greek ideal, where the opposite of citizen was *idiote*. We recognize at the very outset that politics, like economics, is driven by self-interest, but self-interest includes a commitment to the advancement of one's community as well as to one's purse and property.

This inspired us to use more citizen participation narratives in our teaching, and those successes produced a “Get Involved” section at the conclusion of every chapter. In fact, some of the chapters also begin with case studies on the possibilities of one, a few, or many student-citizens influencing a legislature, an agency, a party, a newspaper, and other such centers of power. It should be added here how often political influence comes from the capacity of dedicated citizens to make a nuisance of themselves—badgering members of Congress, in person or by using the magnificent new citizen-friendly technology of fax, e-mail, and Web. From local consumer and environmental groups to pro-choice and pro-life picketers, nuisance value is an important form of influence—and the measure of that influence is the intensity of complaints you hear from its recipients: the legislators and their staffs. But that's a sign of political health. We didn't elect our representatives to a life of comfort and leisure.

On the other hand, we already knew but have become increasingly aware that student-citizens can see through sentimental or moralistic appeals to participate in politics. Students don't have to know much about politics or society to be aware of the inherent limits of individual efficacy in a Big Society like the United States—or, for that matter, a Big City or on a Big Campus. We'd be laughed out of the classroom if we pulled out the old adage that every citizen can be president, or that the views of every citizen are taken into account in the representative process. “The People” is a collective noun; “we, the individuals”

don't count for much. But that does not diminish the validity of the message we convey in each and every chapter. First, we demonstrate in every chapter that the one and the few *can* count. Moreover, those who doubt this are engaging in a self-fulfilling prophecy; that is, to be *inactive* as a result of a pessimistic view of the capacity of citizens is to confirm to the fullest that citizen action cannot count.

But there is a second dimension to our message about participation that must be taken seriously by even the most pessimistic person. This is that inherent in the definition of citizenship itself is the obligation to be enlightened. Self-interest will get you nowhere unless it is enlightened, by knowledge of who you are, what you want, and how you can go about getting it. This is no less true in political life than it is in economic life. Actually, enlightenment is all the more important to effective citizenship precisely because direct political action is not always a practical alternative. Go back once again to Greek antiquity, where politics *was* talk:

To classical political theory, speech, not sight, is the most political of the faculties. . . . But political speech—and, especially, *listening* to political speech—is a skill and pleasure that must be learned; it demands an extended span of attention, the capacity for critical reflection, and that art of hearing that lets us separate meaning from its disguises. Always difficult, that command of rhetoric is harder to cultivate in a society as superpersonal as ours, and the electronic media actually undermine the arts of speech and hearing.¹

Each citizen must have a third ear, and must listen with that third ear to become the best citizen, which, we repeat, is a critical citizen. Criticism *is* speech in action.

In this Third Edition we have tried all the harder to design every chapter to the fullest extent of our ability to show why everyone must for their own sakes be interested in politics. We have tried in every way possible to provide the context, the background, and the origin of every political issue on the American political agenda. And we have tried to deal with each institution in a way that gives its place in the system but also provides a sense of how the one and the few citizens can gain access to it. And we have included what we call a “Greek chorus”—a new “Student Debate,” in which the opposing views of students on current issues are presented, as well as other boxes providing student perspectives, drawn from case studies, polls, campaigns, and news stories. Some of these perspectives are profound; some may seem silly. As with the Greeks, our student chorus illustrates the range of enlightenment. It also demonstrates the potential of the one and the few and the many when knowledge is added to talk. Knowledge and talk are a prelude to action. Enlightenment without action can make a difference. Action without enlightenment can be dangerous. We continue to hope that our book will itself be accepted as a form of enlightened political action. This Third Edition is another chance. It is an advancement toward our goal. We promise to keep trying.

¹Wilson Carey McWilliams, “The Meaning of the Election,” in Gerald Pomper, ed., *The Election of 1988—Reports and Interpretations* (Chatham, NJ: Chatham House Publishers, 1989), p. 183.

ACKNOWLEDGMENTS

Our students at Cornell, Johns Hopkins, Harvard, and Berkeley have been an essential factor in the writing of this book. They have been our most immediate intellectual community, a hospitable one indeed. Another part of our community, perhaps a large suburb, is the discipline of political science itself. Our debt to the scholarship of our colleagues is scientifically measurable, probably to several decimal points, in the endnotes of each chapter. Despite many complaints that the field is too scientific or not scientific enough, political science is alive and well in the United States. It is an aspect of democracy itself, and it has grown and changed in response to the developments in government and politics that we have chronicled in our book. If we did a “time line” on the history of political science, it would show a close association with developments in “the American state.” Sometimes the discipline has been out of phase and critical; at other times, it has been in phase and perhaps apologetic. But political science has never been at a loss for relevant literature, and without it, our job would have been impossible.

We are especially pleased to acknowledge our debt to the many colleagues who had a direct and active role in criticism and preparation of the manuscript. Our thanks go to

First Edition Reviewers

Sarah Binder, Brookings Institution
Kathleen Gille, Office of Representative David Bonior
Rodney Hero, University of Colorado at Boulder
Robert Katzmann, Brookings Institution
Kathleen Knight, University of Houston
Robin Kolodny, Temple University
Nancy Kral, Tomball College
Robert C. Lieberman, Columbia University
David A. Marcum, University of Wyoming
Laura R. Winsky Mattei, State University of New York at Buffalo
Marilyn S. Mertens, Midwestern State University
Barbara Suhay, Henry Ford Community College
Carolyn Wong, Stanford University
Julian Zelizer, State University of New York at Albany

Second Edition Reviewers

Lydia Andrade, University of North Texas
John Coleman, University of Wisconsin at Madison
Daphne Eastman, Odessa College
Otto Feinstein, Wayne State University
Elizabeth Flores, Delmar College
James Gimpel, University of Maryland at College Park
Jill Glaathar, Southwest Missouri State University
Shaun Herness, University of Florida
William Lyons, University of Tennessee at Knoxville
Andrew Polsky, Hunter College, City University of New York
Grant Reeher, Syracuse University
Richard Rich, Virginia Polytechnic
Bartholomew Sparrow, University of Texas at Austin

Third Edition Reviewers

Amy Jasperson, University of Texas at San Antonio

Loch Johnson, University of Georgia

Mark Kann, University of Southern California

Andrea Simpson, University of Washington

Brian Smentkowski, Southeast Missouri State University

Nelson Wikstrom, Virginia Commonwealth University

We also must pay thanks to the many collaborators we have had on this project. First, we owe a very special thanks to Robert J. Spitzer of the State University of New York at Cortland for preparing the “Policy Debates.” We also owe enormous thanks to Mark Kann and Marcella Marlowe of the University of Southern California for their work on the “Get Involved” sections that conclude every chapter. Their success in getting students involved in the communities surrounding the USC campus is evident in the superb quality of these inserts. Thanks also to John Robertson of Texas A&M University for contributing the “American Democracy in Comparative Perspective” boxes to this edition. A comparativist by training, John’s vast experience teaching thousands of students the American politics course shows in these thoughtful essays. We would also like to thank Paul Gronke of Duke University for authoring the “Politics on the Web” sidebars. Van Wigginton of San Jacinto College contributed enormous amounts of very thoughtful content to the Web site, in addition to later keeping it as current as this new technology allows for. Finally, we would like to thank Marilyn Mertens of Midwestern State University for her authorship of both the study guide and instructor’s manual to accompany the book. Marilyn’s teaching experience was a valuable addition to the whole project.

We are also grateful for the talents and hard work of several research assistants, whose contributions can never be adequately compensated. In particular, Mingus Mapps of Cornell, Doug Harris of Johns Hopkins (now an assistant professor at the University of Texas at Dallas), and Ben Bowyer of the University of California at Berkeley put an enormous amount of thought and time into the figures, tables, and study aids that appear in the text. Mingus also kept a close eye on keeping the book as up-to-date as possible.

We would like to give special thanks to Jacqueline Pastore at Cornell University, who not only prepared portions of the manuscript but also helped to hold the entire project together. We especially thank for her hard work and dedication.

Perhaps above all, we wish to thank those at W. W. Norton. For its three editions, our editor, Steve Dunn, has helped us shape the book in countless ways. We thank Aubrey Anable for devoting an enormous amount of time to the Third Edition, especially in finding new photos and selecting pieces for the “Student Debate.” For our interactive Web version of the book, Steve Hoge has been an energetic and visionary editor. Margaret Farley, Ann Tappert, Christopher Miragliotta, and Jan Hoeper all contributed to editing the manuscript and keeping on top of myriad details. Ruth Dworkin has been dedicated in managing production for all three editions. Finally, we wish to thank Roby Harrington, the head of Norton’s college department.

We are more than happy, however, to absolve all these contributors from any flaws, errors, and misjudgments that will inevitably be discovered. We wish the book could be free of all production errors, grammatical errors, misspellings, misquotes, missed citations, etc. From that standpoint, a book ought to try to be perfect. But substantively we have not tried to write a flawless book; we have not tried to write a book to please everyone. We have again tried to write an effective book, a book that cannot be taken lightly. Our goal was not to make every reader a political scientist or a political activist. Our goal was to restore politics as a subject matter of vigorous and enjoyable discourse, recapturing it from the bondage of the thirty-second sound bite and the thirty-page technical briefing. Every person can be knowledgeable because everything about politics is accessible. One does not have to be a television anchorperson to profit from political events. One does not have to be a philosopher to argue about the requisites of democracy, a lawyer to dispute constitutional interpretations, an economist to debate a public policy. We would be very proud if our book contributes in a small way to the restoration of the ancient art of political controversy.

BENJAMIN GINSBERG
THEODORE J. LOWI
MARGARET WEIR

DECEMBER 2000

Contents

Preface xxiii

PART I

1	American Political Culture	2
	What Americans Think about Government	6
	TRUST IN GOVERNMENT	8
	POLITICAL EFFICACY	9
	What Americans Know about Government	11
	CITIZENSHIP: KNOWLEDGE AND PARTICIPATION	12
	THE NECESSITY OF POLITICAL KNOWLEDGE	13
	Government	14
	FORMS OF GOVERNMENT	14
	LIMITING GOVERNMENT	15
	ACCESS TO GOVERNMENT: THE EXPANSION OF PARTICIPATION	16
	INFLUENCING THE GOVERNMENT THROUGH PARTICIPATION: POLITICS	17
	American Political Culture: Conflict and Consensus	18
	LIBERTY	19
	EQUALITY	20
	DEMOCRACY	21
	DOES THE SYSTEM UPHOLD AMERICAN POLITICAL VALUES?	21
	VALUES AND GOVERNMENT	26
	The Citizen's Role	27
	Get Involved: Testing Political Waters	28
	SUMMARY	29
	FOR FURTHER READING	30
	STUDY OUTLINE	30

American Political Life

PRACTICE QUIZ	30
CRITICAL THINKING QUESTIONS	31
KEY TERMS	31

2 The American Political Community 32

Expanding the American Political Community	34
ETHNICITY AND RACE	35
IMMIGRATION AND THE AMERICAN POLITICAL COMMUNITY	45
CLASS	47
GENDER	52
RELIGION	57
Participation in the American Political Community: The Citizen's Role	59
Get Involved: Becoming a Citizen . . . Being a Citizen	62
SUMMARY	63
FOR FURTHER READING	64
STUDY OUTLINE	64
PRACTICE QUIZ	65
CRITICAL THINKING QUESTIONS	66
KEY TERMS	66

PART II

Foundations 3 The Founding and the Constitution 68

The First Founding: Interests and Conflicts	71
BRITISH TAXES AND COLONIAL INTERESTS	71
POLITICAL STRIFE AND THE RADICALIZING OF THE COLONISTS	72
THE DECLARATION OF INDEPENDENCE	74
THE ARTICLES OF CONFEDERATION	74
The Second Founding: From Compromise to Constitution	75
INTERNATIONAL STANDING AND BALANCE OF POWER	75
THE ANNAPOLIS CONVENTION	76

SHAYS'S REBELLION	76
THE CONSTITUTIONAL CONVENTION	77
The Constitution	80
THE LEGISLATIVE BRANCH	81
THE EXECUTIVE BRANCH	83
THE JUDICIAL BRANCH	84
NATIONAL UNITY AND POWER	85
AMENDING THE CONSTITUTION	85
RATIFYING THE CONSTITUTION	85
CONSTITUTIONAL LIMITS ON THE NATIONAL GOVERNMENT'S POWER	86
The Fight for Ratification	88
FEDERALISTS VS. ANTIFEDERALISTS	88
REFLECTIONS ON THE FOUNDING	96
The Citizen's Role and the Changing Constitution	97
AMENDMENTS: MANY ARE CALLED, FEW ARE CHOSEN	97
THE CASE OF THE EQUAL RIGHTS AMENDMENT WHICH WERE CHOSEN? AN ANALYSIS OF THE TWENTY-SEVEN	98
Reflections on Liberty, Equality, and Democracy	104
Get Involved: Become a Framers	105
SUMMARY	106
FOR FURTHER READING	107
STUDY OUTLINE	107
PRACTICE QUIZ	108
CRITICAL THINKING QUESTIONS	109
KEY TERMS	109

4 Federalism 110

The Federal Framework	113
FEDERALISM IN THE CONSTITUTION	113
RESTRAINING NATIONAL POWER WITH DUAL FEDERALISM, 1789–1937	118
FEDERALISM AND THE SLOW GROWTH OF THE NATIONAL GOVERNMENT'S POWER	121
THE CHANGING ROLE OF THE STATES	123

Who Does What? The Changing Federal Framework	124
EXPANSION OF THE NATIONAL GOVERNMENT	125
FEDERAL GRANTS	126
COOPERATIVE FEDERALISM	128
REGULATED FEDERALISM AND NATIONAL STANDARDS	129
NEW FEDERALISM AND STATE CONTROL	131
IS THERE A RIGHT ANSWER?	133
Federalism and American Political Values	138
The Citizen's Role: Participation at Different Levels of the Federal System	139
Get Involved: Participating in Local Politics	140
SUMMARY	142
FOR FURTHER READING	143
STUDY OUTLINE	143
PRACTICE QUIZ	144
CRITICAL THINKING QUESTIONS	145
KEY TERMS	145
5 Civil Liberties	146
The Bill of Rights: A Charter of Liberties	149
Nationalizing the Bill of Rights	152
The First Amendment and Freedom of Religion	155
SEPARATION BETWEEN CHURCH AND STATE	156
FREE EXERCISE OF RELIGION	158
The First Amendment and Freedom of Speech and the Press	159
ABSOLUTELY PROTECTED SPEECH	159
FREEDOM OF THE PRESS	162
CONDITIONALLY PROTECTED SPEECH	163
The Second Amendment and the Right to Bear Arms	169
Rights of the Criminally Accused	171
THE FOURTH AMENDMENT AND SEARCHES AND SEIZURES	173
THE FIFTH AMENDMENT	175
THE SIXTH AMENDMENT AND THE RIGHT TO COUNSEL	178
THE EIGHTH AMENDMENT AND CRUEL AND UNUSUAL PUNISHMENT	178

The Right to Privacy	182
The Future of Civil Liberties	185
The Citizen's Role	187
Get Involved: Defending Liberty	188
SUMMARY	189
FOR FURTHER READING	190
STUDY OUTLINE	191
PRACTICE QUIZ	192
CRITICAL THINKING QUESTIONS	192
KEY TERMS	193

6 Civil Rights 194

Civil Rights	197
<i>PLESSY V. FERGUSON</i> : "SEPARATE BUT EQUAL"	198
RACIAL DISCRIMINATION AFTER WORLD WAR II	198
CIVIL RIGHTS AFTER <i>BROWN V. BOARD OF EDUCATION</i>	201
THE CIVIL RIGHTS ACTS	206
The Universalization of Civil Rights	212
WOMEN AND GENDER DISCRIMINATION	213
LATINOS AND ASIAN AMERICANS	217
NATIVE AMERICANS	217
DISABLED AMERICANS	218
THE AGED	218
GAYS AND LESBIANS	219
Affirmative Action	220
THE SUPREME COURT AND THE BURDEN OF PROOF	221
REFERENDUMS ON AFFIRMATIVE ACTION	223
AFFIRMATIVE ACTION AND AMERICAN POLITICAL VALUES	224
The Citizen's Role	229
Get Involved: Struggling for Civil Rights	230
SUMMARY	232
FOR FURTHER READING	232
STUDY OUTLINE	233
PRACTICE QUIZ	233
CRITICAL THINKING QUESTIONS	234
KEY TERMS	234