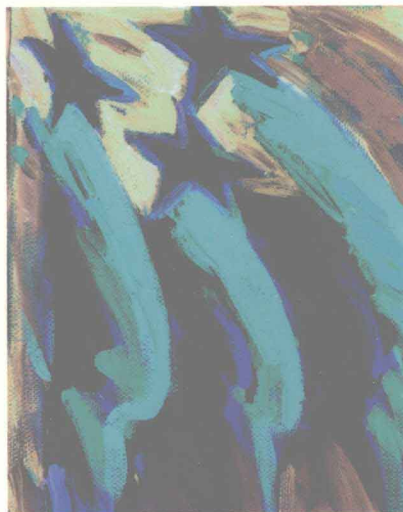




**Lowi & Ginsberg**

4<sup>th</sup> Brief





# AMERICAN GOVERNMENT



*Freedom and Power*

BRIEF FOURTH EDITION

THEODORE J. LOWI

CORNELL UNIVERSITY

BENJAMIN GINSBERG

THE JOHNS HOPKINS UNIVERSITY

W • W • NORTON & COMPANY



NEW YORK • LONDON

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Printed in the United States of America

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The text of this book is composed in Palatino

with the display set in Caslon.

Composition by TSI Graphics

Manufacturing by Courier Manufacturing

Book design by Jack Meserole

Cover design by Karl Steinbrenner

Cover illustration: *Stars and Stripes* by Kari Kaplan/Stockworks

(Multiple images created by cover designer)

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Library of Congress Cataloging-in-Publication Data

Lowi, Theodore J.

American government: freedom and power / Theodore J. Lowi,

Benjamin Ginsberg. — Brief 4th ed.

p. cm.

Includes bibliographical references and index.

1. United States—Politics and government. I. Ginsberg,

Benjamin. II. Title.

JK274.L647 1995

320.473—dc20

95-34820

ISBN 0-393-96863-4 (pbk.)

W. W. Norton & Company, Inc.

500 Fifth Avenue, New York, N.Y. 10110

W. W. Norton & Company Ltd.

10 Coptic Street, London WC1A 1PU

2 3 4 5 6 7 8 9 0



# AMERICAN GOVERNMENT

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## Preface to the Brief Edition

**I**<sup>N THE YEARS</sup> since the original publication of *American Government: Freedom and Power*, the world has changed in a number of surprising ways. Symbolized by the destruction of the Berlin Wall, the Soviet Union has collapsed, Russia has been compelled to seek economic aid from the West, and the cold war that once seemed to threaten the survival of civilization has come to an end. In the Middle East, the United States fought a short but decisive war against Iraq and is now leading a diplomatic initiative that may, after fifty years of violence, bring about some solution to the problems of the Middle East. In South Africa, the hated system of *apartheid* has disintegrated in the face of domestic opposition and international pressure. The nations of Western Europe have taken giant steps toward economic and political integration.

American domestic politics also seems to be undergoing dramatic change. After years of Democratic control, both the House and the Senate were captured by the Republicans in the 1994 elections. With the once solidly Democratic South becoming solidly Republican, we may be witnessing a major electoral realignment that will leave the GOP in control of the nation's government. Of course,

some elements of American politics never seem to change. Political participation in the United States is as low as ever, while the federal government's budget deficit seems to be unconquerable.

But in a changing world it is more important than ever to understand the politics of the United States. More than at any other time since the Second World War, the world is looking to America for leadership and for an example of popular government in action. Throughout the world, America—despite its problems and faults—symbolizes the combination of freedom and power to which so many now aspire. This makes the task of our book all the more important.

This Brief Edition of *American Government: Freedom and Power* is designed specifically for use in courses whose length or format requires a more concise text. We preserved as much as possible of the narrative style and historic and comparative analysis of the larger text. Though this is a Brief Edition, we have sought to provide a full and detailed discussion of every topic that, in our view, is central to understanding American government and politics. We hope that we have written a book that is physically brief but is not intellectually sketchy.

The collaboration on this book began nearly ten years before its publication, and the book is in every way a product of collaboration in teaching, research, and writing. Each author has taught other courses—for thirty-seven and twenty-three years, respectively—and has written other books; but we agree that no course has been more challenging than the introductory course, and no book has been more difficult to write. Someone once asked if it is difficult for scholars to “write down” to introductory students. No. It is difficult to “write up” to them. Introductory students, of whatever age or reading level, need more, require more, and expect more of a book.

A good teaching book, like a good novel or play, is written on two levels. One is the level of the narrative, the story line, the characters in action. The second is the level of character development, of the argument of the book or play. We would not be the first to assert that there is much of the theatrical about politics today, but our book may be unusual to the extent that we took that assertion as a guide. We have packed it full of narrative—with characters and with the facts about the complex situations in which they find themselves. We have at the same time been determined not to lose sight of the second level, yet we have tried to avoid making the second level so prominent as to define us as preachers rather than teachers.

The book is only one product of our collaboration. The other important product is about 5,000 Cornell and Johns Hopkins students who took the course out of which this book grew. There is no way to convey adequately our appreciation to those students. Their raw intelligence was not satisfied until the second level could provide a logic linking the disparate parts of what we were asserting was a single system of government. And these linkages had to be made in ordinary language. We hope we brought this to the book.

We hope also that we brought over from our teaching experience a full measure of sympathy for all who teach the introductory course, most

particularly those who are obliged to teach the course from departmental necessity rather than voluntarily as a desired part of their career. And we hope our book will help them appreciate the course as we do—as an opportunity to make sense of a whole political system. Much can be learned about the system from a re-examination of the innumerable familiar facts, under the still more challenging condition that the facts be somehow interesting, significant, and, above all, linked.

This points to what must be the most troublesome, sometimes the most embarrassing, problem for this course, for this book, and for political science in general: All Americans are to a great extent familiar with the politics and government of their own country. No fact is intrinsically difficult to grasp, and in such an open society, facts abound. In America, many facts are commonplace that are suppressed elsewhere. The ubiquity of political commonplaces is indeed a problem, but it can be turned into a virtue. These very commonplaces give us a vocabulary that is widely shared, and such a vocabulary enables us to communicate effectively at the first level of the book, avoiding abstract concepts and professional language (jargon). Reaching beyond the commonplaces to the second level also identifies what is to us the single most important task of the teacher of political science—to confront the million facts and to choose from among them the small number of really significant ones.

We have tried to provide a framework to help the teacher make choices among facts and to help the students make some of the choices for themselves. This is good political science, and it is good citizenship, which means more than mere obedience and voting; it means participation through constructive criticism, being able to pierce through the information explosion to the core of enduring political reality.

Our framework is freedom and power. To most Americans that means freedom *versus* governmental power, because Americans have been



raised to believe that every expansion of the government's power involves a contraction of personal freedom. Up to a point we agree with this traditional view. The institutions of American government are in fact built on a contradiction: Popular freedom and governmental power *are* contradictory, and it is the purpose of our Constitution to build a means of coping with that contradiction. But as Supreme Court justices sometimes say to their colleagues, "We concur, dissenting in part." For in truth, freedom and power are related to each other as husband and wife—each with some conflicting requirements, but neither able to produce, as a family, without the other.

Just as freedom and power are in conflict, so are they complementary. *There can be little freedom, if any, without governmental power.* Freedom of any one individual depends fundamentally on the restraints of everyone else in his or her vicinity. Most of these restraints are self-imposed. We call that *civility*, respect for others born of our awareness that it is a condition of their respect for us. Other restraints vital to personal freedom are imposed spontaneously by society. Europeans call those restraints *civil society*; sociologists call them *institutions*. Institutions exist as society's means of maintaining order and predictability through routines, customs, shared values. But even in the most stable society, the restraints of civility and of civil society are incomplete and insufficient; there remains a sphere of deliberate restraint that calls for the exercise of public control (public power). Where society falls down, or where new events and new technologies produce new stresses, or where even the most civil of human beings find their basic needs in conflict with others, there will be an exercise of public control, or public power. Private property, that great bastion of personal freedom in the Western world, would disappear without elaborate government controls.

If freedom were only a matter of the absence of control, there would be no need for a book like ours. In fact, there would be little need for political science at all. But politics, however far away in

the national or the state capital, is a matter of life and death. It can be as fascinating as any good novel or adventure film if the key political question is one's own survival or the survival of one's society. We have tried to write each chapter of this book in such a way that the reader is tempted to ask what that government institution, that agency, this committee or that election, this group or that amendment has to do with *me* and *us*, and how has it come to be that way? That's what freedom and power are all about—my freedom and your restraint, my restraint and your freedom.

Having chosen a framework for the book there was also a need for a method. The method must be loyal to the framework; it must facilitate the effort to choose which facts are essential, and it must assist in evaluating those facts in ways that not only enlighten students but enable them to engage in analysis and evaluation for themselves. Although we are not bound exclusively to a single method in any scientific or philosophic sense, the method most consistently employed is one of history, or history as development. First, we present the state of affairs, describing the legislature, the party, the agency, or policy, with as many of the facts as are necessary to tell the story and to enable us to reach the broader question of freedom versus governmental power. Next, we ask how we have gotten to where we are. By what series of steps, and when by choice, and when by accident? To what extent was the history of Congress or of the parties or the presidency a fulfillment of constitutional principle, and when were the developments a series of dogged responses to economic necessity? History is our method because it helps choose which facts are significant. History also helps those who would like to try to explain why we are where we are. But more important even than explanation, history helps us make judgments. In other words, we look less to causes and more to consequences. Political science cannot be satisfied with objective description, analysis, and explanation. Political science would be a failure if it did not have a vision about

the ideal as well as the real. What is a good and proper balance between freedom and governmental power? What can a constitution do about it? What can enlightened people do about it?

Evaluation makes political science worth doing but also more difficult to do. Academics make a distinction between the hard sciences and the soft sciences, implying that hard science is the only real science: laboratory, people in white coats, precision instruments making measurements to several decimal points, testing hypotheses with “hard data.” But as medical scientist Jared Diamond observes, that is a recent and narrow view, considering that science in Latin means knowledge and careful observation. Diamond suggests, and we agree, that a better distinction is between hard (i.e., difficult) science and easy science, with political science fitting into the hard category, precisely because many of the most significant phenomena in the world cannot be put in a test tube and measured to several decimal points. We must nevertheless be scientific about them. And more: unlike physical scientists, social scientists have an obligation to judge whether the reality could be better. In trying to meet that obligation, we hope to demonstrate how interesting and challenging political science can be.

## THE DESIGN OF THE BOOK

The objective we have taken upon ourselves in writing this book is thus to advance our understanding of freedom and power by exploring in the fullest possible detail the way Americans have tried to balance the two through careful crafting of the rules, through constructing balanced institutions, and by maintaining moderate forms of organized politics. The book is divided into four parts, reflecting the historical process by which freedom and governmental power are (or are not) kept in balance. Part I, “Foundations,” comprises the chapters concerned with the writing of the rules of the contract. The founding of 1787–1789

put it all together, but that was actually a second effort after a first failure. The original contract, the Articles of Confederation, did not achieve an acceptable balance—too much freedom, and not enough power. The second founding, the Constitution ratified in 1789, was itself an imperfect effort to establish the rules, and within two years new terms were added—the first ten amendments, called the Bill of Rights. And for the next century and a half following their ratification in 1791, the courts played umpire and translator in the struggle to interpret those terms. Chapter 1 introduces our theme. Chapter 2 concentrates on the founding itself. Chapters 3 and 4 chronicle the long struggle to establish what was meant by the three great principles of limited government: *federalism*, *separation of powers*, and *individual liberties and rights*.

Part II, “Institutions,” includes the chapters sometimes referred to as the “nuts and bolts.” But none of these particles of government mean anything except in the larger context of the goals governments must meet and the limits that have been imposed upon them. Chapter 5 is an introduction to the fundamental problem of *representative government* as this has been institutionalized in Congress. Congress, with all its problems, is the most creative legislative body in the world. But how well does Congress provide a meeting ground between consent and governing? How are society’s demands taken into account in debates on the floor of Congress and deliberations by its committees? What interests turn out to be most effectively “represented” in Congress? What is the modern Congress’s constituency?

Chapter 6 explores the same questions for the presidency and the government bureaucracy. Although Article II of the Constitution provides that the president should see that the laws made by Congress are “faithfully executed,” the presidency was always part of our theory of representative government, and the modern presidency has increasingly become a law *maker* rather than merely a law implementor. What, then, does a



strong presidency with a large executive branch do to the conduct and the consequences of representative government?

Chapter 7 on the judiciary should not be lost in the shuffle. Referred to by Hamilton as “the least dangerous branch,” the judiciary truly has become a co-equal branch, to such an extent that if Hamilton were alive today he would probably eat his words.

Part III we entitle “Politics and Policy.” Politics encompasses all the efforts by any and all individuals and groups inside as well as outside the government to determine what government will do and on whose behalf it will be done. Our chapters take the order of our conception of how politics developed since the Revolution and how politics works today: Chapter 8, “Public Opinion and the Media”; Chapter 9, “Elections”; Chapter 10, “Political Parties”; and Chapter 11, “Groups and Interests.” But we recognize that, although there may be a pattern to American politics, it is not readily predictable. One need only contemplate the year-long nomination of presidential candidates to recognize how much confusion, downright disorder, there is in what we political scientists blithely call “political process.” Chapter 12 is an evaluation of that process. We ask whether our contemporary political process is consistent with good government. Unfortunately, the answer is not entirely positive.

The last chapters are primarily about public policies, which are the most deliberate and goal-oriented aspects of the still-larger phenomenon of “government in action.” Chapter 13 is virtually a handbook of public policy. Since most Americans know far less about policies than they do about institutions and politics, we felt it was necessary to provide a usable, common vocabulary of public policy. Since public policies are most often defined by the goals that the government establishes in broad rhetorical terms and since there can be an uncountable number of goals, we have tried to get beyond and behind goals by looking at the “techniques of control” that any public policy

goal must embody if the goal is even partially to be fulfilled. Chapter 14, “Foreign Policy and World Politics,” turns to the international realm and America’s place in it. Our concern here is to understand American foreign policies and why we have adopted the policies that we have. Given the traditional American fear of “the state” and the genuine danger of international involvements to domestic democracy, a chapter on foreign policies is essential to a book on American government and also reveals a great deal about America as a culture.

Chapter 15 is our analysis of the state of American politics today. Much has been said and written about the Republican takeover of both houses of Congress in 1994, but we believe that to understand fully the transformations occurring in American politics, one must assess the historical roots of these changes. A reasoned assessment of the historical background also gives us an intellectual foundation to hypothesize about the future of American politics. We believe that American politics is entering a new era, dominated by a new national power structure and driven by a new political process. Entering a new era of politics means that the balance between freedom and power becomes even more central. We hope that readers of this text will feel better equipped to ponder this “indelicate balance.”

With this edition, our book enters the computer age. If you have access to the World Wide Web, you can find us at the Lowi and Ginsberg Web Companion. Our address is <http://web.wwnorton.com/lowi.htm>. Here you will find a directory of Internet resources that enhance the study of the topics found in this text. Our home page also includes multimedia elements that help explain the arguments we present in the text, as well as some of the basic political processes we analyze. Finally, adopters of this text can join the Lowi and Ginsberg list serve, a forum to discuss the teaching of American government with this text, by sending an E-mail message to [majordomo@norton2.wwnorton.com](mailto:majordomo@norton2.wwnorton.com) (leave the

subject blank, and type "subscribe lowi" as the body of the message).

## ACKNOWLEDGMENTS

Our students at Cornell and Johns Hopkins have already been identified as 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 footnotes 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, as we have done in each chapter of the book, 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.

There have, of course, been individuals on whom we have relied in particular. Of all writers, living and dead, we find ourselves most in debt to the writing of two—James Madison and Alexis de Tocqueville. Many other great authors have shaped us as they have shaped all political scientists. But Madison and Tocqueville have stood for us not only as the bridge to all timeless political problems; they represent the ideal of political science itself—that political science must be steadfastly scientific in the search for what is, yet must keep alive a strong sense of what ought to be, recognizing that democracy is neither natural nor invariably good, and must be fiercely dedicated to

constant critical analysis of all political institutions in order to contribute to the maintenance of a favorable balance between individual freedom and public power.

We are pleased to acknowledge our debt to the many colleagues who had a direct and active role in criticism and preparation of the manuscript. The first edition was read and reviewed by Gary Bryner, Brigham Young University; James F. Herndon, Virginia Polytechnic Institute and State University; James W. Riddlesperger, Jr., Texas Christian University; John Schwarz, University of Arizona; Toni-Michelle Travis, George Mason University; and Lois Vietri, University of Maryland. Their comments were enormously helpful. For subsequent editions, we relied heavily on the thoughtful manuscript reviews we received from Joseph D. Peek, Jr., Georgia State University; Russell Hanson, University of Indiana; William Keech, University of North Carolina; Donald Kettl, University of Wisconsin; William McLaughlan, Purdue University; J. Roger Baker, Wittenburg University; James Lennertz, Lafayette College; and Allan McBride, Grambling State University. The advice we received from these colleagues was especially welcome because all had used the book in their own classrooms. Other colleagues who offered helpful comments based upon their own experience with the text include Douglas Costain, University of Colorado; Robert Hoffert, Colorado State University; Mark Silverstein, Boston University; and Norman Thomas, University of Cincinnati.

We also want to reiterate our thanks to the four colleagues who allowed us the privilege of testing a trial edition of our book by using it as the major text in their introductory American Government courses. Their reactions, and those of their students, played an important role in our first edition. We are grateful to Gary Bryner, Brigham Young University; Allan J. Cigler, University of Kansas; Burnet V. Davis, Alma College; and Erwin A. Jaffe, California State University-Stanislaus.

We are also extremely grateful to a number of

colleagues who were kind enough to loan us their classrooms. During the past two years, while preparing this edition, we had the opportunity to lecture at a number of colleges and universities around the country and to benefit from discussing our book with those who know it best—colleagues and students who used it. We appreciate the gracious welcome we received at Austin Community College, Cal State-Fullerton, University of Central Oklahoma, Emory University, Gainesville College, Georgia State University, Golden West College, Grambling State, University of Houston—University Park, University of Illinois—Chicago, University of Maryland—College Park, University of Massachusetts—Amherst, Morgan State University, University of North Carolina—Chapel Hill, University of Oklahoma, Pasadena City College, University of Richmond, Sam Houston State, San Bernardino Valley College, Santa Barbara City College, Santa Monica College, University of Southern California, Temple University, University of Texas—Austin, Texas Tech University, Virginia Commonwealth University, and University of Wisconsin—Madison.

We owe a special debt to Robert J. Spitzer, State University of New York—College at Cortland, for preparing most of the essays profiling important individuals that appear throughout the book. By linking concepts and events to real people, these essays help to make this a more lively and interesting book and thus one that students will be more likely to read and remember. Professor Spitzer also helped develop the “Debating the Issues” boxes, in which core concepts are debated by political thinkers.

We also are grateful for the talents and hard work of several research assistants, whose contribution can never be adequately compensated: Douglas Dow and John Forren prepared the test bank. Brenda Holzinger helped to develop the study questions. Steve McGovern prepared the film guide and the annotated bibliographies. Others who gave us significant help with the book are Melody Butler, Rebecca Fisher, Nancy Johnson,

David Lytell, Dennis Merryfield, Rachel Reiss, Nandini Sathe, Noah Silverman, Rob Speel, Jennifer Waterston, and Daniel Wirls (now a member of the Politics faculty at the University of California at Santa Cruz).

Jacqueline Discenza not only typed several drafts of the manuscript, but also helped to hold the project together. We thank her for her hard work and dedication.

Michael Harvey worked on several substantive aspects of the fourth edition. We now lose him to the faculty of the University of Wisconsin at Milwaukee, but not without a grateful sendoff.

Theodore Lowi would like to express his gratitude to the French-American Foundation and the Gannett Foundation, whose timely invitations helped him prepare for his part of this enterprise.

Perhaps above all, we wish to thank those who kept the production and all the loose ends of the book coherent and in focus. Steve Dunn has been an extremely talented editor, taking the place of our long-time editor, Roby Harrington. We want to state emphatically that Roby’s much-deserved promotion to the head of Norton’s college department does not relieve him of all responsibility for our book. We will feel free to continue to call him with our complaints. Stephanie Larson has devoted an enormous amount of time to our book. Traci Nagle has been an absolutely superb manuscript and project editor, following in the great tradition of her predecessor, Margie Brassil, who became so engrossed in the study of American politics in working on this book that she is now a graduate student at Johns Hopkins. Through all our editions, Ruth Dworkin has been an efficient production manager. For their work on previous editions of the book, we want to thank Nancy Yanchus, Jean Yelovich, Sandra Smith, Sandy Lifland, and Amy Cherry.

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 pro-

duction 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. 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 anchor 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.

Theodore J. Lowi  
Benjamin Ginsberg  
August 1995



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