



STATE BOARD of EDUCATION TEXTBOOK HEARING
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American Government Textbooks Proposed for Adoption
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Introduction:

I reviewed American Government textbooks for the Texas Public Policy Foundation. Today, I would like to identify what I see as considerable weakness of all three textbooks: the tendency to present theory or conjecture as fact. I have commented on each of the following books individually and the comments have been submitted to the publishers for their consideration.

Glencoe/McGraw Hill
Holt Rinehart & Winston
Prentice Hall

United States Government, Texas Edition
Holt American Government, Texas Edition
Magruder's American Government (Texas Edition)

Textbook Accuracy:

In five areas in particular, the American Government textbooks present information that can be misconstrued by readers as definitive, when in fact these five areas are subject to much debate among legal scholars, constitutional theorists, policy-makers, and citizens.

1. **Constitutional Interpretation: Organic vs. Strict Construction** – There is a tendency in the American Government textbooks to claim that the US Constitution is a “living document” and that the longevity of the constitution is due to its “organic” and “flexible” nature. This position is highly debatable. An equally valid position among legal scholars and constitutional theorists is that the longevity of the constitution stems from that the fact that it is a fixed document with timeless principles that are not flexible. One textbook even goes so far as to not only advocate the organic theory, but to offer additional readings and political cartoons indicting the strict constructionist approach as flawed.

- Holt text: “The Constitution has been called a ‘living document,’ which means that it is flexible and allows government to adapt to changing times (p. 56).”
 - Prentice Hall text: “Tell students that the Constitution is a flexible document that can be changed if the need arises (p. 73).” The Assessment exercise on page 82 asks students to read why the constitution is called the “Living Constitution.” Page 67 has a political cartoon endorsing an organic conception of the constitution. Page 51 encourages students to read a book by Jack Rakove indicting the strict constructionist approach to constitutionalism. What is the basis for the statement on page 292 that the “American people have generally agreed with a liberal interpretation of the Constitution?” Students should be informed of the concept of a “living constitution” but the discussion should be balanced with a discussion of the merits of strict constructionism.
 - Glencoe text does a better job of handling this issue, and avoids the term “living constitution,” instead applying the more traditional “loose” versus “strict” construction approach.
2. **Role of Government: Limited vs. Expansive** – The American Government textbooks tend to promote an expansive role for government rather than a limited role. Examples of this are numerous. For example, there is tendency to imply that state powers are granted by the Constitution rather than the accurate statement that state powers are reserved to the states, and hence existed prior to the national government. The textbooks are also unclear on the conception of limited national powers granted by the constitution. Textbooks often claim that “the government” is responsible for providing education, a good job, the ability to raise a family, policemen, firemen, environmental protection, healthcare, welfare, and the well-being of the elderly. The texts offer little discussion of how social services are paid for and tend to focus instead on the benefit of providing such services. The risk here is that students come away with a sense that the national government is 1) the only level of government of any importance since the concept of a federal political system is not always made clear, and 2) that the national government is responsible for a variety of social programs that are nowhere called for in the Constitution. One textbook even suggests (after students read John Locke) that students make a list of all the ways in which government benefits people. I find this ironic since Locke is primarily concerned about all the ways in which governments can disadvantage people.
- Glencoe text: “An effective government allows citizens to plan for the future, get an education, raise a family, and live orderly lives (p. 10)” My concern is that these items are not found in the Constitution and are assumed by this statement to be a function of government.
 - Prentice Hall text: Government must “provide for education, guard the public’s health, and protect the environment. It must also pave the streets, punish criminals, protect civil rights, care for the elderly, and do much, much, more (p. 4)”
 - Holt text balances theoretical function of government with policy, which I think is a superior means of approaching this topic. “A government should secure citizens’ natural rights and fulfill its part of the social contract by performing a variety of functions (p. 4)”
3. **2nd Amendment: Individualist vs. Collectivist Right** - Two of the three textbooks definitively state that the 2nd Amendment applies only to the states’ right to arm and maintain a militia. In other words, the 2nd Amendment does not grant an individual the right to keep and bear arms. The interpretation of the 2nd Amendment is a major point of contention between liberals and conservatives. The declaration that one interpretation is correct is neither factually accurate nor representative of the diversity of opinion that exists on this subject. First, there is much scholarship that supports an individual’s right to keep and bear arms as consistent with the Founders’ drafting of the 2nd Amendment. Second, the US court system is highly divided over the

interpretation of the 2nd Amendment. The 5th Circuit Court of Appeals in *US vs. Everson (2001)* concluded that the 2nd Amendment does indeed protect the right of individuals. Third, the United States Justice Department and President Bush support an individualistic interpretation of the 2nd Amendment. I believe that the textbooks are guilty of poor scholarship rather than political pandering to anti-gun groups at the expense of encouraging dialogue among students. However, one book advocates that students initiative gun-control organizations on their campus.

- Prentice Hall text: “The 2nd amendment was added to the Constitution to protect the right of each State to keep a militia (p.750).” Then later the publishers contend that “Many insist that the 2nd amendment also sets out an individual right..... The Supreme Court has never accepted that interpretation of the 2nd Amendment (p.571).” Why do the publishers seem to endorse the first statement by making it so definitive but disassociate themselves with the other?
- Glencoe text: The text on page 85 explains the 2nd amendment by noting that “This amendment seems to support the right for citizens to own firearms...” Why the use of the conditional word “seems,” where the implication is that such an interpretation might be correct but the publisher hesitates to endorse it? Compare this to the contradictory explanation of the 2nd Amendment on p. 789 where the publisher declares that “The purpose of this amendment [2nd] is to guarantee states the right to keep a militia.”
- Holt text offers a more objective discussion: “Many Americans believe that the amendment supports their right to own firearms to protect their homes or engage in the sport of hunting. Many other Americans feel that firearms are dangerous and need to be restricted (p.323).”

4. **Economic Systems: Socialism versus Capitalism:** The textbooks have a tendency to focus on the weakness of capitalism, downplay its strengths, and offer socialism as the cure.

Holt text: “In a capitalist system, people attain different levels of wealth and success, which produces inequality in their standard of living. Some people are quite wealthy, while others are very poor. Another economic system [socialism] attempts to reduce these inequalities by redistributing wealth throughout society (p. 511)” The concern here is that the statement implies that socialist systems provides a better standard of living than capitalist systems. The argument could be made that the relative standard of living in capitalist systems is better because it produces a large middle-class that is affluent compared to the average citizen in a socialist system. This possibility should be discussed. On page 513 the statement that “When government operates ... businesses [in socialist systems], all citizens own and collectively benefit from any of their profits” should be qualified. First, the “sharing” of profits is not really a cash benefit but instead translates into social programs. Second, some discussion of the extent to which socialist run enterprises succeed should be included.

Prentice Hall offers a more balanced discussion, exploring the merits and weaknesses of both capitalism and socialism. The same is true with the Glencoe Text. However, in their efforts to present the theoretical virtues of both capitalism and socialism, neither text presents any empirical data to draw conclusions about the merits of either system. The Holt book, to its credit, does note that many socialist systems have abandoned socialism in favor of capitalism.

5. **Patriotism Defined as Political Activism:-** Historical examples of great acts of patriotism are few and far between in any of the books. Patriotism is portrayed as far removed from the classical notions of electoral participation, jury duty, defense of liberty, and civic virtue. Instead, patriotism has been redefined as promotion of causes – recycling, assistance to the homeless, gun safety, protests against multinational corporations, and reform of a corrupt political process. While any form of civic participation by young people is admirable, publishers seem to have a

tendency to focus on political movements rather than present a more historical and theoretical discussion of the nature of citizenship in a constitutional republic. Partly this is a function of trying to convey a difficult concept to young readers and trying to appeal to issues that young people will find interesting. The concern here is that such an approach denies the reader a balanced perspective between anti-establishment movements and the defense of political institutions and values.

The Prentice Hall book has the greatest tendency in this direction. The majority of examples from the book seem to center around three causes – gun control, the environment, and social welfare. The use of environmental examples and call to environmentalism is particularly frequent (see pages 3, 4, 25, 135, 394, 413, 418, 426, 436, 443, 494, 699). The book also advocates that students investigate gun control organizations (page 234, Teachers Commentary, and 235), the Green Party (page 136, the Green Party receives a full page reprint of its platform), and consider protesting multi-national corporations (page 497, Teachers Commentary).

The Holt book does a better job of contrasting different perspectives on political issues.

The Glencoe text has a tendency to focus on the organizational and procedural aspects of government while ignoring “politics” per say. It is almost as if, in an attempt to be ideologically neutral, the publisher has decided to avoid discussion of anything controversial and focus exclusively on political institutions, processes, and powers.

Publishers’ Response to Textbook Evaluations:

All of these criticisms were submitted to the publishers for their consideration. In no case did I suggest that material be removed from the books. Instead, I suggested places where I thought additional information might be useful or where clarification would be helpful in the existing text. The goal was not to create textbooks with a liberal or conservative viewpoint, but to promote textbooks that offered an accurate discussion of public-policy issues from both vantage points. In some cases the publishers have responded to my suggestions in writing, offering to make revisions to achieve better balance. In other cases the publishers explained why they prefer to retain the material as originally presented. All responses from publishers have been posted on the TPPF website.

Recommendations:

1. I request that board members examine the textbook errors posted on the TPPF website and then review the publishers’ responses. Board members can then determine to what extent the books present an accurate and comprehensive coverage of the TEKS requirements. I have attached the publishers’ responses to the specific criticisms I mentioned in my testimony today.

The responses I have received range from cooperative and reasonable to dismissive and argumentative. I should point out that in some cases, publishers contend that my concerns were not factual errors, but merely criticisms of the material as presented. **When theory or conjecture is presented as fact, or when impartial information results in a false conclusion, then the textbook is not factually accurate.** If the facts are subject to debate or differences of opinion, then both sides should be equally well presented.

2. I would also make the following recommendation regarding the TEKS requirements for American Government. If textbooks are going to recommend that students investigate or join an organization, the textbooks should also recommend that students investigate organizations with opposing viewpoints. In addition, if textbooks provide a space for an organization to convey its platform directly to students (such as reprinting the Green Party platform) then competing organizations (such as the Democratic Party, Republican Party) should be provide the same opportunity.

Errors in American Government Textbooks: Publishers' Responses

Constitutional Interpretation:

✓ **Holt Response:**

We are aware that the "living document" *interpretation* is "debatable" and agree that the Constitution contains "timeless principles"—but even these are re-examined on occasion in light of circumstances quite different from those existing at the time of the Constitution's framing, as unanticipated cases and controversies arise. In support of our text, we refer to the following sources: "the idea of a 'living Constitution' ... *has guided judicial interpretation throughout most of American history* and has made it possible to adapt the Constitution to changing circumstances without extensive use of the amendment process" (*American Political Dictionary*, p. 272; emphasis added); "it is anachronistic and presumptuous to assume that we can determine what the framers and ratifiers of a particular [constitutional] provision, drafted a century or two before the present, would have preferred to happen in a world they could no more anticipate than we can successfully imagine theirs" (*Oxford Companion to the Supreme Court*, p. 184). We believe that to mention the prevailing view—the text says only that the Constitution "has been called a 'living document'" and define what that means—is appropriate for a high school American government course. Students need to know the nature of the actual American constitutional tradition in which they will participate as citizens (a tradition where "original intent" is not the only view). The subject of constitutional interpretation is also treated elsewhere in the text (see S pp. 249–50 and 272).

✓ **Prentice Hall Response:**

Change TE, p. 51, *Background Note* to:

"A subject of serious debate in politics today is whether current interpretations of the Constitution should be based on the Framers' original intent. Originalists argue that the best way to interpret the Constitution is to determine how the Framers intended it to be interpreted. In *Original Arguments: Constitutional Interpretation, Textual Meaning, Original Intent and Judicial Review*, Keith E. Whittington buttresses the originalists' argument by making the case that originalism, or original intent, should be the preferred method of constitutional interpretation, as it is the method best suited for a democratic government. On the opposite side of the spectrum, in *Original Meanings: Politics and Ideas in the Making of the Constitution*, Jack Rakove argues that there was no single "original intent" among the Framers. Rakove analyzes the sharply different perspectives of the Framers and points to how those differences led to dynamic debate and compromise.

Limited vs Expansive Government:

✓ **Glencoe Response:**

The reviewer has asked a question, not pointed out a verifiable error of fact. The text in question is part of a larger discussion on the general purposes of government. This discussion, which includes narrative on pages 9-11, is intended to help understand the many roles that government plays in people's lives. It does not state that these are characteristics of the American government under the Constitution.

✓ **Prentice Hall Response:**

Change SE page 4, paragraph 2, column 1 to:

"Government in this country is now focused on the fight against terrorism at home and abroad. Still, government has many other tasks to perform. It punishes criminals, protects civil rights, and regulates trade. Although Americans disagree on government's role in providing services, today's government also provides for education, guards the public's health, cares for the elderly, and does much, much more."

Change SE page 292, second column, fourth paragraph, first sentence:

“Today, United States politics is marked by a lack of consensus, or general agreement, over the proper limits of national power. Liberals favor a liberal construction, while conservatives favor a strict construction. This fundamental split is reflected in the different points of view of the Democratic and Republican parties.”

2nd Amendment

✓ **Glencoe Response:**

The reviewer is asking for more content, not stating an error. The text in question on page 789 is a short annotation in the side margin of the Constitution. There are three full paragraphs devoted to a discussion of the 2nd Amendment on pages 84—85, which read:

“The Second Amendment This amendment ensures citizens and the nation the right to security. It states: ‘*A well-regulated Militia being necessary to the security of a free State, the right of the people to keep and bear Arms shall not be infringed.*’ Originally, the Second Amendment was intended to prevent the national government from repeating actions that the British had taken. Before the Revolution, the British tried to take weapons away from colonial militia, or armed forces of citizens. This amendment seems to support the right for citizens to own firearms, but it does not prevent Congress from regulating the interstate sale of weapons, nor has the Supreme Court applied the Second Amendment to the states. States are free to regulated the use and sale of firearms.”

The Publisher does believe the annotation on page 789 should be changed and included the following on its list of corrections and changes submitted to The Texas Education Agency on June 27, 2002:

Page 789, annotation to 2nd amendment:

Replace annotation with
Bearing Arms (1791)

This amendment is often debated. Some people argue that it protects the right of states to have militias. Others argue that the Founders’ original intent was to protect the right of individuals to have weapons. The Supreme Court has yet to issue a definitive ruling on the Second Amendment’s meaning.

✓ **Prentice Hall Response:**

Add to TE p. 570: “Background Note Constitutional Issues
In November 2001, Attorney General John Ashcroft informed attorneys working for the National Government of a shift in policy regarding the 2nd Amendment. In the past, U.S. attorneys had argued that the 2nd Amendment referred primarily to a collective right based on state militias. Ashcroft wrote that U.S. attorneys were to argue in weapons-related court cases that the 2nd Amendment was intended to protect an individual’s right to keep and bear arms. The new policy was apparent in a letter that Solicitor General Theodore Olson wrote to the Supreme Court in May 2002 regarding a challenge to a District of Columbia law. Olson wrote, “The current position of the United States is that the 2nd Amendment more broadly protects the rights of individuals . . . to possess and bear their own firearms, subject to reasonable restrictions.”

Change SE page 571, first column, first two paragraphs to:

“Many argue that the 2nd Amendment also sets out an individual right. In

this view, the amendment guarantees a right to keep and bear arms just as, for example, the 1st Amendment guarantees freedom of speech. This interpretation rests partly on Locke's *Second Treatise on Government*, which says that people have the right to overthrow a tyrannical government when peaceful means fail. Armed individuals may be a more effective deterrent to tyranny than a state militia.

The Supreme Court has not accepted this interpretation. In *United States v. Miller*, 1939, the Court upheld part of a federal law that outlawed shipping sawed-off shotguns, machine guns, or silencers between States unless the shipper had registered them with the Treasury Department and paid a \$200 fee. The Court ruled there was no reasonable link between these weapons and "the preservation . . . of a well-regulated militia."

SE page 772, 2nd Amendment Commentary, has been changed on errors list submitted to TEA to "The right of the people to keep and bear arms was insured by the 2nd Amendment."

Socialism

Holt Response:

The text merely states what socialism attempts to do. It does not imply that it succeeds at this attempt, nor does it imply, in our opinion, that socialism produces a higher standard of living. Explicit comparisons of standards of living are not introduced in this discussion, so we believe that the text adequately presents the theoretical role of government in different economic systems without adding opinions on the outcomes of varying levels of government involvement in the different economic systems.

In our opinion the text does not imply that the benefits citizens in socialist countries receive from government-operated businesses are cash benefits. There is discussion on S pp. 513–14 of the problem of high taxes associated with socialist systems. Also, students will have learned about the problems with government enterprises (inefficiency, poor performance) in Chapter 8. They can be expected to apply this knowledge to what they learn about socialist-run enterprises.

Student Activism *

✓ **Prentice Hall Response:**

TE page 234, change "You Can Make a Difference" to

"The SAFE in SAFE Students stands for "Sane Alternatives to the Firearms Epidemic," an interest group that supports gun control. NRA stands for the National Rifle Association, which promotes the right to gun ownership. Point out that these organizations represent just two of the hundreds of interest groups in this country. Then direct a committee of students to consult each group's Web site (www.safestudents.org and www.nra.org) and evaluate SAFE Students and the NRA. They should compare and contrast each group's purposes and activities and make a presentation to the class."