

1988 election, 32 percent of Bush's ads were negative—compared with 41 percent of Democratic candidate Michael Duka-

kis's. The Republican's negative pitch that year clearly was a lot more memorable—and also, it seems, a lot more effective.

Rights Run Amok

"'Absolute' Rights: Property and Privacy" by Mary Ann Glendon, in *The Responsive Community* (Fall 1991), 714 Gelman Library, The George Washington Univ., Washington, D.C. 20052.

Under the spell of philosopher John Locke and the lectures on law of Sir William Blackstone, Americans from the beginning talked about property rights as if they were absolute. In practice there was a good deal of public regulation of property. The Fifth Amendment, for example, recognized the federal government's power of eminent domain. But the extravagant rights talk had a strong influence, Harvard Law Professor Glendon notes. In the late 19th and early 20th centuries, the U.S. Supreme Court's extreme view of property rights led it to reject much social legislation, delaying the nation's transition to a mixed economy and a welfare state until the Court reversed itself in the 1930s. In recent years, Glendon argues, absolutist rights talk has reappeared in the courts and passed into common discourse, only this time the rhetoric is about privacy, not property.

The Supreme Court and lawyers in general, Glendon says, have thought of the right of privacy "as marking off a protected sphere that surrounds the individual," and dressed the new right up in the old property-rights rhetoric. Privacy emerged as a distinct constitutional right only in 1965, in the landmark Supreme Court decision, *Griswold v. Connecticut*. Justice William O. Douglas found in the "penumbras" of the Constitution, "a right

of privacy older than the Bill of Rights" protecting the "intimate relation of husband and wife" from state interference. In 1972, the Court extended the right beyond the family and elevated it to a full-fledged *individual* right. The following year, in *Roe v. Wade*, the Court decided that the right was "broad enough to encompass a woman's decision whether or not to terminate her pregnancy." But, as had happened with property rights, Glendon writes, the high court since then has experienced difficulties "in working out principled limitations on a right that seemed for a time to have no bounds."

What's wrong with a little exaggeration about individual rights? For one thing, Glendon says, "no one can be an absolutist for *all* our constitutionally guaranteed rights, because taking any one of them as far as it can go soon brings it into conflict with another." In addition, she says, absolutist rhetoric encourages conflict and discourages reasoned dialogue. It expresses "our most infantile instincts rather than our potential to be reasonable men and women. A country in which we can do 'anything we want' is not a republic of free people attempting to order their lives together." Nor is it a country in which the responsibilities that must accompany rights get the attention they deserve.

FOREIGN POLICY & DEFENSE

World Champion For How Long?

"The Democratic Moment" by Marc F. Plattner, in *Journal of Democracy* (Fall 1991), 1101 15th St. N.W., Ste. 200, Washington, D.C. 20005.

The liberal democratic ideal is now in the ascendancy around the world—but how long can this happy moment last? Democ-

racy's fate, says Plattner, coeditor of the *Journal of Democracy*, depends on whether a rival postcommunist movement