



Curriculum Units by Fellows of the National Initiative
2011 Volume III: The Idea of America

Reviving American Ideas: The U.S. Constitution, the Anti-Federalists and the 28th Amendment

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Introduction

Why does the constitution matter? Anyone on the street will probably be able to say, "It's the law from which all other laws come" but do they really know how the supreme body of law affects them? A better question might be; Do they care? and if not, why not? How many Americans understand the intensity of the debate our Founding Fathers endured to create the intricate framework for our Republic?

It matters because it works!

It matters for the understanding of the American political system.

It matters for the continuation of a representative democracy.

It matters for my understanding of The Yale National Initiative Seminar "The Idea of America."

This unit aims to bridge the gap between gifted students and any student willing to challenge themselves with an Advanced Placement (AP) course. The goal is to close the achievement gap by encouraging minority students and other sub groups to participate in an exciting AP U.S. History course. The class will model the ideals of the lesson; popular sovereignty. Students will gain knowledge, develop college-ready skills and sit for the AP exam with confidence in their abilities. Faith in themselves is a difficult concept for high school juniors to develop on their own. I hope to have each student build a sense of self as an American citizen, a fellow Pittsburgher and a members of my class.

Overview

Reviving American Ideas is designed for 11th grade AP United States History to do what the title asks through primary source analysis. Modifications may be made for AP United States Government or Civics. My hope is for students to gain a personal perspective with the readings to bridge the ideal with the real. In light of current

federal budget concerns, much talk has been given to the legitimacy of the U.S. Constitution. If students connect with the Founding Fathers they can realize what was at stake in the early debates about the Constitution and draw connections to today.

Throughout this unit students will study the American political system from primary sources: the Constitution, the Federalist Papers and the Anti-Federalist Papers. This review of American Government content and practice is an attempt to connect the flow of American ideals from ninth grade Civics through eleventh grade American History. Pittsburgh Public students experience civics through a course called Civics: Be The Change. Students have a say in their education through service projects and roundtable discussions. The Social Studies curricula connects year to year by grouping students and retaining the same teachers for at least two years. This looping program is successful in boosting student achievement through mutual trust and responsibility. My class will begin the year with each student giving consent to be in the class as a way of modeling the rights and duties of a citizen. This unit, Reviving American Ideas, will enhance the district's desire to keep all students on the path to Promise Readiness, a college and career path. By starting class discussion on rights, duties and responsibilities in the school students will eventually make connections to the community, state and federal government. By the end of the sequence, the ideals in the U.S. Constitution may not seem as foreign as they did in ninth grade.

American high school students should have some understanding of the major political systems in the world as we are moving to a global society. The difference between democracies and authoritarian states is stressed in World History with a focus on the greatness of democracies. After two years of Social Studies, students should be able to analyze the extent of democracy in America. Robert Dahl defines five key elements of a democracy. They are: effective participation, meaning that the people should have an adequate and equal opportunity to have their voices heard in the decision making process; voting equality, meaning that all votes should count equally; enlightened understanding, which means that the people should have adequate and equal access to information so that they can make the best possible decision; control of the agenda, meaning the people should be able to decide what decisions are debated and voted upon; and, finally, the system must be inclusive, meaning that all adults in the society should be authorized to participate in the political process. ¹

Lack of political participation in the United States has had a significant impact on our democracy. Americans have joined the growing Tea Party movement since 2009 to try to reform the ailing political system. Their concerns are taxes, government spending and divergence from the original view of the Constitution. The Coffee Party was created in 2010 as a progressive response to the Tea Party but failed to have a similar impact on the political system. The Tea Party had big names and GOP endorsements. The Coffee Party had average Americans following Harvard Law professors which many saw as "undemocratic" causing supporters to drift away. As we prepare for the 2012 election, the country remains a two-party system with minimal input from the people as individuals.

In recent years we have moved away from the intent of the Founding Fathers. Some political pundits say we need to return to the original arguments. I agree. The Anti-Federalist had many concerns in 1788 that are still valid today. The problem with looking to the U.S. Constitution for guidance reflects a greater problem of educating the citizenry to know what to do to maintain a democracy.

Knowledge of the U.S. Constitution is critical for anyone considering the AP U.S. exam. How much of the Constitution to cover at the high school level is a constant challenge. Teachers know their students have knowledge of the Constitution from Civics class but the level of retention is never certain. Some review of core principles may be necessary before advancing to the philosophy of the Constitution. Students may be daunted

by the task of studying all seven articles and twenty-seven amendments along with the division of power. Constitutional controversies may inspire students to investigate the framework further and draw conclusions about the relevance of the Constitution today. Students will have the opportunity to apply their knowledge in a final assessment: they will debate a new, 28th Amendment to the Constitution. They will use information gained from both independent and collective analysis of critical founding documents. Viewing cable news programs, reading newspapers and watching C-SPAN will be helpful research activities. In the end, students will be proud of their knowledge of the Constitution. They will have practiced democracy and gained confidence to move swiftly through the course.

Rationale

The purpose of this curriculum unit is to have students learn reasoning through a process of constitutional analysis. Students will read primary sources from the Founding Fathers to increase their exposure to documents they may come in contact with throughout the year on various standardized exams. AP U.S. History teachers must cover three hundred years of history in less than thirty-two weeks while giving important topics equal breadth and depth. We are also challenged with the goal to help boost the achievement gap by allowing any student with a desire to learn more about the Advanced Placement program a seat in the course. This directive forces teachers to find creative simulations to cover both content and skills. Getting students to realize they have a duty to attend school is simple as it is the law. The Pennsylvania Constitution of 1790 was the basis for the Free Public School Act of 1834 that is the underpinning of today's system of schools operating throughout the Commonwealth. These schools were created to educate children to be useful citizens, loyal to the principles upon which our Republic was founded, and aware of their duties as citizens to maintain those ideals. ² Through an analysis of the founding of America as a representative democracy, my students will fulfill the goals of the state. Perhaps they will even turn on PCN cable channel and watch the call for a new constitutional convention at the state level.

By "doing history" student retain the information in a distinctive way to connect social, cultural and political aspects of American History. This unit will supplement the Pittsburgh Public Schools curricula and meet ongoing PA state requirements. Public education provides opportunities for students to acquire knowledge, develop integrity, process information, think critically, work independently, collaborate and adapt to change. ³

Constitutional Background

We can make sense of the Constitution by understanding it in light of what our best thinking shows Americans stand for as a people past, present and future. ⁴

The Constitutional Convention took place from May to September of 1787. Although the delegates were called to revise the Articles of Confederation they thought it would be easier and more democratic to draft a new constitution. One of the biggest concerns for the nascent republic was enforcing taxes on unwilling states as this power was not enumerated in the Articles of Confederation. There was tension around the process of creating new rules for the government so close to the Revolution. Rhode Island did not send delegates for fear of losing their state power, and was the last state to ratify the U.S. Constitution.

What the delegates formulated was a system of representative government with checks in place to balance the democratic power. The three main branches are given separate powers and legislative, executive and judicial duties as enumerated in the first three articles. Article I details the powers granted the bicameral legislative body. The House election is the first section. Qualifications of twenty-five years, seven years a citizen and inhabitant of the state are enumerated in Article I, Section 2, Clause 2. Article I is the most extensive section with fifty-two clauses. The Founding Fathers were careful to list most of the responsibility for governance with the Congress as it was the closest to the people. They were intelligent men who knew they would not think of all future problems. Article I, Section 8, Clause 18, is known as the Elastic Clause because it gives the Congress power "to make all laws necessary and proper for carrying into execution the foregoing powers, and all other powers vested..." It is this clause that started the great debate between the expansion of federal power and retention of rights by the people. Strict Constructionists like Thomas Jefferson believed each word in the U.S. Constitution should be followed but they feared aspects not enumerated may be ignored, like individual rights. Loose Constructionists were fans of the necessary and proper clause which allowed the federal government broad interpretation to expand its power, especially under the Marshall Court (1801-1835). Although ways of viewing the constitution may change, the Constitution endures because its meaning and application have been shaped by an ongoing process of interpretation. ⁵

Federalists

Men in favor of ratifying the U.S. Constitution as it stood in 1787 rallied support of the people prior to ratification by state conventions. In a series of newspaper columns called Federalist Papers, Alexander Hamilton, James Madison and John Jay wrote eighty-five essays to clarify their view that the U.S. Constitution was "a more perfect union." To disguise their own interests and win the trust of their audience they chose the pseudonym of Publius. These Federalists, as they called themselves, poured energy into their cause of ensuring the future greatness of America with impressive arguments. They envisioned the United States as the "envy of the world."

Anti-Federalists

Idealists, the anti-Federalists, saw themselves as true federalists. Many authors in this group chose monikers to depict their suspicions of anti-democratic activity: Brutus, Sentinel and Cato. Patrick Henry and Melancton Smith were outspoken Anti-Federalists who believed in small government with retention of power in the states and individuals. Unfortunately, this group did not have the rhetorical skills of their counterparts. They had one major success in the addition of the first ten amendments, the Bill of Rights, but most of their objections were overcome by the Federalists. When Thomas Jefferson is sworn in as the third president, these views about popular sovereignty and democracy grew more influential.

Written Constitution

Why is the U.S. Constitution written down? Thomas Jefferson, principle drafter of the Declaration of Independence, believed in the security of the Republic through a written Constitution. Perhaps they only scribed their thoughts to be able to have a record, but with the failure of the Articles of Confederation, it seemed valid to enumerate powers in greater detail. The Constitution quickly became the envy of future republics. "It was a fixed objective document that could be consulted and applied...yet the Constitution's principles and provisions were general and ambiguous enough to allow of varying interpretations." ⁶

The U.S. Constitution is now the shortest written constitution in the world, with seven articles and twenty-seven amendments. At the time it was drafted there was nothing like it so the drafters had the added

pressure to "get it right." The Founding Fathers knew they had to deliberate the needs of the people and the ultimate role of government, a daunting task. They believed man was a rational animal and the citizens had to be connected to the government but the government reigned supreme. "If men were angels no government would be necessary," became the Federalist mantra. Gordon Wood said the sacrifice of individual interests to the greater good formed the essence of republicanism and comprehended for Americans the idealistic goal of their revolution. ⁷

Many people take issue with a few enlightened men meeting in secret to hash out the details of the most important document for the nation. Investigation of the process will reveal that the United States was never intended to be a direct democracy but a Republic. The core was set up on guiding principles from the Declaration of Independence and what the enlightened group believed was best for the common good. Power was checked in the process as an example for future politicians.

Living Constitution

The U.S. Constitution is considered by many scholars to be a living document but the extent to which it must keep up with the times is often a source of debate. Current discussions on hot topics include the possibility of legalizing marijuana and restricting who can marry whom. Most reasonable people realize the U.S. Constitution cannot be all things to all people yet it lays the framework for our representative democracy. In *The Constitution Goes to College*, Rodney A. Smolla believes the most important Constitutional concern is whether or not we have a living Constitution. He calls this query the "mother of all American constitution debates, an issue that transcends all questions of constitutional law." ⁸ Smolla's thesis and the focus of his book center around academic freedom as an implied right since the words do not appear in the text of the U.S. Constitution. He says, "if academic freedom is to be recognized as an implied right, it must be one implied by contemporary understandings of the meaning of the constitutional text rather than historical understandings." ⁹

So, one way to view the U.S. Constitution is as a living document. This means the "spirit and letter" of the Constitution are not static. The American principles of freedom and liberty are enumerated in the framework of government established by the U.S. Constitution. I must agree with a dynamic view not only for my lessons in this unit but also for my personal belief in the power of the people to evoke change.

Popular Consent

This unit addresses some challenges to the Constitution while encouraging high school students to engaging in the practices of popular consent and rule by the people.

Although fifty-five men comprised the Constitutional Convention, they made sure to send their finished work to seven-hundred representatives in twelve states. The concept of consent of the governed is a revolutionary ideal listed in the Declaration of Independence and delicately embodied in the framework of the U.S. Constitution. The Founding Fathers deliberated at length on how they would create an equilibrium to "establish justice", "insure domestic tranquility", "provide for the common defense", "promote the general welfare", and "insure the blessings of liberty". The process of considering the needs of each individual was simplified to a general will of the majority through popular consent. Even the Federalists saw a need to stay in touch with the people as the ultimate authority. Hamilton said "the power surrendered by the people is divided...", acknowledging that the people legitimize the government. In Federalist 51, Hamilton assures his readers checks will be established: " In framing a government which is to be administered by men over men,

the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself." Responsibility to government is a theme of The Anti-Federalist letter Sentinel number 1: "A republican, or free government, can only exist where the body of the people are virtuous...in such a government the people are the sovereign..."¹⁰ The Antifederalist caution that if you complicate the structure people will easily become confused and fall prey to demagogues. A balanced must be maintained so ultimate power rests with the people.

The U.S. Constitution was drafted from the plans of the existing "states" and the people in the former British colonies who recently deposed the king. Direct democracy was a common practice in New England and small towns along the East Coast. In the struggle to create a balanced system, much discussion was given to the power of the chief executive. There was a consensus amongst the Founding Fathers that George Washington would be the first executive since he was a trusted military leader. Perhaps the entire branch was modeled after Washington's characteristics. This may be why the delegates and ratification conventions put their trust in one person to rule the executive branch.

How to balance power between the three branches is a topic of many Federalist Papers and also a concern in the Anti-Federalist Papers. What some may find surprising are the areas of agreement. There was only one place in the world in the late 1700's where a group of government drafters accepted the following:

The principle of representative government; a bicameral legislature; a means to amend the Constitution in the future; a fixed time for elections; federalism and the supremacy of the national government over the states.

Disagreement arose over the need for a strong union, broad taxing powers, election procedures, the role of a standing army and the need for a Bill of Rights.

No Amendment has been proposed by the states or the people directly, yet "reform via convention has a much better chance of being comprehensive." Thomas Jefferson said, "Every constitution then, and every law, naturally expires at the end of 19 years. If it be enforced longer, it is an act of force, and not of right.—It may be said that the succeeding generation exercising in fact the power of repeal, this leaves them as free as if the constitution or law has been expressly limited to 19 years only."¹¹

Amending the Constitution

Thomas Jefferson believed each generation could set the course for its own future and continue to improve the government through its own involvement. By keeping the Constitution current in the classroom we can keep democracy alive. "The reason the United States Constitution is the world's most enduring written constitution is not simply the genius of the fifty-five men who met in Philadelphia in 1787. Rather, it is the way that generation after generation of Americans has made the Constitution ours. The Constitution endures because its meaning and application have been shaped by an ongoing process of interpretation."¹² Dissection of the Constitution will show "the ultimate goal of our constitutional order is to produce not merely democratic procedures but a democratic culture: a culture in which all citizens can participate and feel they have a stake..."¹³ Fred Karger believes we can "begin the dialog and show our 16- and 17-year-olds that we value them and their opinions. They can drive, pay taxes, enlist in the military at 17 and even vote in certain state primaries at 17 as long as they turn 18 by the general election."¹⁴

Some may think it too lofty a goal to ask students to devise a future amendment. I realized through simple internet searches this task is often given to law students in a Constitutional Law course. My aim is simply to

engage students in the process as a fun way to bridge necessary content. "Concerned collective action takes time to organize, but before it can be organized, its organizers must first understand the system. They must understand where the system may need to change and where the system can be changed in a way that has no exact precedent." ¹⁵

Congress

For a document that is over two centuries old to only have twenty-seven changes is quite remarkable but also problematic. Article V outlines the process of ratification either by 2/3 of Congress or 3/4 of the states. Since the Articles of Confederation required unanimous support, the Founding Fathers took illegitimate means to create a better framework. Perhaps one reason for the lack of amendments is the difficulty of the process.

"More than four thousand amendments have been proposed in Congress over the past forty years, with a grand total of six sent to the states for their consideration..." ¹⁶ Larry Sabato believes many of these proposals were worthy of consideration and they may have had a chance at the state level, "being closer to the people and insulated from many of the paralyzing forces that make progress difficult in Washington, D.C." ¹⁷ Any amendment dealing with Congress, like term limits, is a long shot as the members are not likely to cede power in the future, yet several state constitutions have such limits. ¹⁸ Some parliamentary systems have a check of a confidence vote by the public. If the representative does not hold a majority of public approval they are removed from office. The United States has recall and referendum votes at the local level but not federal. The GOP's famous Contract for America in 1994 promised to bring the issue to a House vote. They went through the motions but did not get enough votes for ratification by the states. ¹⁹

The twenty-sixth amendment was part of the original amendment group but did not gain approval with the Bill of Rights in 1791. The consideration for congressional compensation was not brought back until discovered by a student in 1982. The practice of asking Congress members to face the electorate before increasing their own compensation took 202 years to move through Congress.

Are federal term limits feasible? Could this be the 28th Amendment?

Judiciary

Many Anti-Federalist papers warn about the strength of the judiciary since minimal direction is given in Article III. Real direction for the American court system is given in the Judiciary Act of 1789, but still no qualifications were listed. The Constitution lists minimal age and citizen requirements for the president, senators and representatives yet no guidelines for the Supreme Court. The number of judges was not even codified in Article III, but left to Congress. There is no set path to the High Court, one only needs the nomination of the President and confirmation in the Senate. The Anti-Federalist Brutus calls for a totally independent judicial branch to allow courts to execute their power. He feared a concentration of power in the federal government which will necessarily limit the states. ²⁰ Other critics call for the High Court to be supreme but not eternal. Even Justice Roberts argued for a fifteen-year limit on Supreme Court service. ²¹

Are elected federal judges the future? Could this be the 28th amendment?

Likewise, by participating in local jury trials, in civil as well as criminal cases, the people in their states acquired knowledge of the laws and the operation of government, and thereby, argued the Anti-Federalists, they become more responsible citizens. It was feared that this responsibility would be lost when cases were

appealed to the proposed national Supreme Court, which had jurisdiction on appeal over all questions of law.

Under the judicial power, the courts would be able to expand powers of the legislature and interpret laws in a way Congress did not intend. Brutus interpreted the grant of judicial power to all cases arising under the Constitution as a grant of "judicial review." He opposed this grant, because he thought the judges, who were appointed for life, should leave it to Congress to interpret the constitutional reach of its powers. "The insularity produced by a lifetime tenure...often means that senior judges represent the views and outlooks of past generations better than current day." ²²

Anti-Federalists including Brutus objected as well to the extensive appellate jurisdiction of the supreme court. Article III section 2 may have guaranteed a jury trial in criminal cases, but on appeal, the fate of the defendant would be up to the judges. The Anti-Federalists wanted to have the right of jury trials extended to civil cases and to have the results protected against appellate reconsideration.

Objectives

The main objective of this unit is to give students the tools to read critically, draw conclusions, and formulate creative ideas. Through examination of the American democratic process students will see what worked for the Founding Fathers and discover areas for future improvement.

Reading for understanding, discussing interpretations and drafting original thoughts may be some of the outcomes, but not the main focus. Current pedagogical trends encourage students to seek, inquire and produce work reflective of their learning. Since educational trends focus on the process of learning to make students accountable, why not expose them to the process of deliberation and ratification of the U.S. Constitution to show how our first citizens were able to engage in a similar action?

Ultimately, the goal is to have students participate in a government they feel is "by the people." By writing a letter to their Congressperson to evoke change or creating a Constitutional amendment student actively engage in the same process as the Founding Fathers.

Students need to gain an understanding of American Diversity across time in America History. Studying differences and relationships among various groups should include the roles of race, gender, ethnicity, and class conflicts throughout the history of the United States. The theme American Identity deals with views of the American national character and ideas about American exceptionalism. Culture includes diverse individual and collective expressions through literature, art, philosophy, music, theater, and film throughout U.S. History. Popular culture and the dimensions of cultural conflict within American society should be explored.

Strategies

The Pittsburgh Public Schools uses an inquiry approach for many Social Studies courses. Students are encouraged to discover material on their own, and share their findings both inside a small group and within a larger forum. This student collaboration yields questions for further investigation while encouraging the learner to be responsible for their education. Students may need to practice techniques for reading a document, recording key aspects and drawing conclusions before they get comfortable with this approach. Teachers who coach students and build confidence may want to share their own confusion with daunting constitutional sections.

Getting students to work with the text of the Constitution is not an easy task. One approach could involve tracing the text of the seven Articles in the U.S. Constitution back to the Declaration of Independence. Students can find connections between the ideals and discuss how those ideals are incorporated into the supreme body of law. Some questions to consider: What feelings does this evoke? What do you see?

Often our study of the U.S. Constitution continues chronologically through the Bill of Rights and Civil War amendments. I will shift the focus to themes of republicanism and popular sovereignty throughout our chronological study of American History. Political dilemmas will allow students opportunities to consider what they would do if they had power. I recommend using the *Penguin guide to U.S. Constitution* by Richard Beeman as it includes the critical documents with detailed remarks. Beeman also includes chapters on the Constitutional Convention and the Contest over Ratification which he calls "America's First National Referendum." Students should be able to navigate this book with ease. The analysis is simple and the explanations draw connections between the words and actions of the Founding Fathers.

With constant talk in the media about returning to the intensions of our Founding Fathers, how should teachers discuss challenges to the U.S. Constitution with their students? Returning to the original debates through primary sources is a way to connect the ideals of the Founding Fathers to modern concerns while perhaps reviving the electorate to the same lofty considerations.

In the Activities section I have students consider the following questions. What if you were invited to the exclusive event to rework the Articles of Confederation into a "more perfect union" and the representatives could not agree on the issues to debate or what core ideals they wanted to protect the supreme law of the land? What would you do to keep all parties in the discussion? How do resolve the issues and concerns from every state?

Sources can guide desired outcomes. If the intent is to introduce the idea of American Exceptionalism look to Glenn Beck's *The Original Argument: The Federalists' case for the constitution, Adapted for the 21st Century*. He depicts the Federalist rallying Americans behind the document as a symbol, so he argues for an originalist interpretation in modern times. The danger of trying to get back to the "good ole days" is that history shows they were never that great. Other books discuss more key arguments around how to view the Constitution; static or elastic. *A Living Constitution or Fundamental Law? American Constitutionalism in Historical Perspective* by Herman Belz shows the Constitution as both static and dynamic. "The concept of the Constitution as a formal legal instrument or code giving existence to government and prescribing and limiting the exercise of its powers," states Belz, "rather than as the basic structure of the polity, not consciously constructed but growing organically through history, was one of the distinct achievements of the American Revolution." ²³ Mark Tushnet recently published, *Why The Constitution Matters*. He discusses both sides of the

argument in his concise work. There is a new book only available on Amazon Kindle, published by Time, *The Constitution: Does it Still Matter?* By Richard Stengel. Timely issues are discussed in this most recent publication. Stengel shows President Obama's healthcare policy and ability to extend war powers as modern applications of the U.S. Constitution. Half-way through the book, Stengel has a Time Forum with responses from five prominent experts to gain their views on the debt ceiling, war powers, immigration and health care. This commentary is funny and informative.

Teachers may want to get copies of the Signet version of the Anti-Federalist Papers. The chart page twenty-seven contains a summary of opposed arguments in Federalist and Anti-federalist writings. One can easily reference either side by the subject.

This unit is a product of my experience in YNI seminar, The Idea of America and hours of research at the Yale Law Library. Through casual discussion and collaboration with teachers from across the country, I realized I wanted to create a unit to give students more of a voice in their government. Discovering John Seery's book *Too Young To Run* was a turning point in my research. I planned having students write a constitutional amendment as a culminating project. Why would a 16-17 year old feel they have a voice in the government if they cannot vote? When people born in the United States turn 18 they can vote, that's the extent of their political duties. The 26th amendment is the only voting amendment to not presume voting includes running for office. Many constitutional law scholars and prominent historians do not believe in the possibility of a constitutional amendment in the near future, I pass the charge to the next generation. To fully understand the U.S. Constitution one must appreciate the history from which a unique republic developed before analyzing the text through a modern lens. Since this unit is for high school students, I think continual discussions regarding what is appropriate decorum for the classroom fits in the realm of academic freedom, and should be encouraged throughout. Students ought to participate in the class and the school as a model of how to act in the community and state. Who can deny that education is at the heart of the "idea of America?"

Class Activities

Pacing is one of the biggest challenges for AP teachers. By combining skills with content in a simulation students can meet course objectives and move quickly through the curriculum.

Week One

Students can address the complex nature of the question, "who is an American?" through a study of colonial documents. The Mayflower Compact, John Winthrop's "City on a Hill" and The Maryland Toleration Act are sufficient primary sources to this end. Analysis of these documents will allow students to question who came to America, why they came and what order they established from the beginning. Posing the question, "at what point was democracy established in America?" will help students trace the development of direct to representative democracy. Students can use excerpts from Alexis de Tocqueville to assess core American values then and now. Chapters one to three of Foner's *The Story of American Freedom* can be used as a supplement to the course text.

Week Two

Have students consider, "In what ways and to what extent was the Revolution a mandate for direct

democracy?" How are the goals of the Revolution translated into the first government? Often the failures of the Articles of Confederation are compared to the Articles of the U.S. Constitution (1787) to show how the Founding Fathers were quick to address the needs of the growing republic, mainly more power to the executive. This approach yields a simple comparison while showing the underlying arguments for the Constitution; the Federalist Papers. At this level I would have students add their own interpretation. Most students will probably agree that the first government did little to uphold democratic principles, so a Constitution for a more perfect union was necessary.

The textbook *Out of Many* has an excellent question at the end of chapter 7: Examine the governments established in the Articles of Confederation and in the thirteen state constitutions and postulate the extent to which those governments were "democratic." ²⁴ The question of how democratic America is or seems can be used throughout the course.

With a few days notice, the students can research whether to support the Constitution or make significant changes before ratifying. The teacher can give a document set or have students research the Federalist Papers (in favor of immediate ratification) and the Anti-Federalist Papers (in favor of holding out for a Bill of Rights and other changes). Once students have some background on the drafting and ratifying of the U.S. Constitution they can analyze why certain components were included and other ideas excluded. The debate between Federalist and Anti-Federalists is often used to teach the necessity of a written constitution. When teachers use these documents, the Federalist papers often take center stage to the Anti-Federalist response. Reviving Anti-Federalist themes of small government, individual responsibility and greater representation may allow for varying viewpoints in the classroom.

Practicing a constitutional debate from primary sources like the Anti-federalist papers will show timely issues of debate. Finally, students will ask, "how can I improve the supreme body of law?" As a culminating project to their study of American government and a way for students to show their involvement in the political process they can research the judiciary and propose a elected Supreme Court; they can examine the power of the president as enumerated in Article II juxtaposed with the actual power exercised by recent Presidents, they can also discover voting anomalies by state that do not support the vision of the U.S. Constitution. Hopefully by reviving the Federalist/ Anti-Federalist debate students can create their own vision for a New America and a "more perfect union."

Week Three

As a final project, students will be asked to write their own amendment to the U.S. Constitution (see appendix). They will first research what they see as "holes" in the enumeration of the Constitution and write legislation to clarify the power structure. John Seery's book *Too Young To Run* is an excellent segue to engage youth in the political process that necessarily needs involvement by the electorate to remain democratic. Micheal Waldman, from the Brennan Center for Justice, published a short read, *A Return to Common Sense: Seven Ways to Revitalize Democracy*. Waldman highlights voter registration, electronic voting and gerrymandering as three of the biggest deterrents to our democratic institutions. C-SPAN and local media may give students other timely debates. His experience as a speech writer for president Clinton allows him to share inside knowledge of the Beltway world.

Appendix 1

Student Handout Culminating Assignment

Congratulations!

You are now a convention member called to amend the U.S. Constitution. Thirty-four states participated in the organization of this convention and thirty-eight states must ratify by the deadline.

Your task is simple. Get ready to improve the federal government! First, work in your group of 2-3 to decide the issue most pressing or most likely to be ratified in the next three months. Select from the following choices; qualifications for judiciary, term limits for Congress, federal funding for presidential elections or representation to protect "one man one vote." When drafting your amendment show how it will blend with the existing constitution. What implied powers are you enumerating? Which Article is most in need of clarification? In accordance with Article V, your group must gain approval from the 3/4 of the "states" (your classmates). Be careful with your actions. This groundbreaking motion may offend congressmembers and the Congress has final say in the process.

"Congress" will be an elite group of Social Studies teachers with vast knowledge of the U.S. Constitution. Since you may be amending term limits for congress, and causing some to cede power, you must present a valid argument to the other "states." Each group (2-3) will act as a state with constituents in neighboring Civics classes(5-7). The ruling in *Hawke v. Smith*, 253 U.S. 221 (1920) prohibits taking a vote by the people but your "state" constituents can help lobby.

The draft of your amendment should be succinct (less than 100 words). Include a separate page of the amendment's historical development with a rationale that focuses on the urgency of the issue. Write out your arguments, prior to the debate, and try to memorize three key points. Amendments will be posted on the Moodle site for all "states" to read the arguments before voting. A final reflection paper will be due one day after the vote. The final report will include a discussion of the process - How did you pick your issue? What did you include in the amendment? Why? Which strategies did you employ to assure acceptance by a majority? Prizes will be awarded to the winners. Watch out for Capitol Police (Officer T) as dissidents may be removed from the area.

Prepare to debate on Wednesday, October 5th.

Final reports due Friday, October 7th.

Appendix 2

Quotes from *Democracy in America* by Alexis de Tocqueville

Students can use these excerpts to form their own views on democracy in the USA today.

"But obviously without such common belief no society can prosper; say, rather, no society can exist; for without ideas held in common there is no common action, and without common action there may still be men, but there is no social body. In order that society should exist and, a fortiori, that a society should prosper, it is necessary that the minds of all the citizens should be rallied and held together by certain predominant ideas; and this cannot be the case unless each of them sometimes draws his opinions from the common source and consents to accept certain matters of belief already formed." (*Democracy in America*, Volume II, Chapter II, 2nd Paragraph)

"Let us now imagine a community so organized by nature or by its constitution that it can support the transitory action of bad laws, and that it can await, without destruction, the general tendency of its legislation: we shall then conceive how a democratic government, notwithstanding its faults, may be best fitted to produce the prosperity of this community. This is precisely what has occurred in the United States; and I repeat, what I have before remarked, that the great advantage of the Americans consists in their being able to commit faults which they may afterwards repair." (Democracy in America, Volume I, Chapter XIV, 7th Paragraph)

"But there is another species of attachment to country which is more rational than the one I have been describing. It is perhaps less generous and less ardent, but it is more fruitful and more lasting: it springs from knowledge; it is nurtured by the laws, it grows by the exercise of civil rights; and, in the end, it is confounded with the personal interests of the citizen. A man comprehends the influence which the well-being of his country has upon his own; he is aware that the laws permit him to contribute to that prosperity, and he labors to promote it, first because it benefits him, and secondly because it is in part his own work." (Democracy in America, Volume I, Chapter XIV, 18th Paragraph)

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The Founders' Constitution. Volume 1, Chapter 2, Documents 23. *The Papers of Thomas Jefferson*. Edited by Julian P. Boyd et al. Princeton: Princeton University Press. 1950. <http://press-pubs.uchicago.edu/founders/documents/v1ch2s23.html>

<http://www.amendment-28.com/> work of fiction from 2004 with political action website

<http://www.amendment-28.com/final/amendment.cfm>

<http://www.ultimatecivics.org/> people taking action to restore democracy (far Left)

Read more: [How to Write a Constitutional Speech | eHow.com](http://www.ehow.com/how_6049052_write-constitutional-speech.html#ixzz1U4fdj4mo)

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Endnotes

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2. *ibid*
3. PA State Board of Ed.. "Pennsylvania Department of Education." state academic standards.
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6. Belz, Herman. *A Living Constitution or Fundamental Law?* p.31

7. Kesler p.271
8. Rodney Smolla *The Constitution goes to College* pg.6
9. Smolla p.7
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11. Jefferson letter Volume 1, Chapter 2, Document 23
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14. Karger speech. Fred Karger called upon the Congress and the states to ratify the 28th Amendment to our Constitution in a speech to students at the Rockefeller Center at Dartmouth College June 2011.
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17. *ibid* p.9
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21. Sabato *A More Perfect Constitution* p. 112
22. *ibid* p. 113
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