

“We the People”: Civics and Government Today

Year 1
History Unit 5
Sourcebook

Lesson 1: The Legislative Branch



The Capitol building, home of the legislative branch of the federal government (Wikimedia)

How does the Legislative Branch pass laws?

Homework

The Legislative Branch

Read the article “The Legislative Branch” on the History Channel website as well as the excerpt from Article 1, Sections 1 and 8 of the Constitution below.

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives

The Congress shall have power to lay and collect taxes , . . . to pay the debts and provide for the common defense and general welfare of the United States

To borrow money on the credit of the United States;

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes ; . . .

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

To declare war ...

To raise and support armies ...

To make all laws which shall be necessary and proper for carrying into execution the powers listed above, and all other powers **vested** [*given*] by this Constitution in the government of the United States.

Courtesy of Cornell Law School.

Lesson 2: The Executive Branch



The White House (Wikimedia)

How do the President and Executive Branch affect foreign and domestic policy?

Homework

The Executive Branch

Read the article “The Executive Branch” on the History Channel website as well as the excerpt below from Article II, Section 2, of the Constitution.

The President shall be commander in chief of the Army and Navy of the United States, and of the militia of the states, when called into the service of the United States; he may require the opinion of the principal officer of the executive departments, upon any subject relating to the duties of their offices, and he shall have power to grant ... pardons for offenses against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators **present** [agree]; and he shall nominate ... and appoint ambassadors, other public **ministers and consuls** [government officials], judges of the Supreme Court, and all other officers of the United States.

Courtesy of Cornell Law School.

Lesson 3: The Judicial Branch



The Supreme Court of the United States (Wikimedia)

How does the Judicial Branch apply the Constitution to interpret law?

Homework

The Judicial Branch

Read the article “The Judicial Branch” on the History Channel website as well as the excerpt below from Article III, Section 2, of the Constitution.

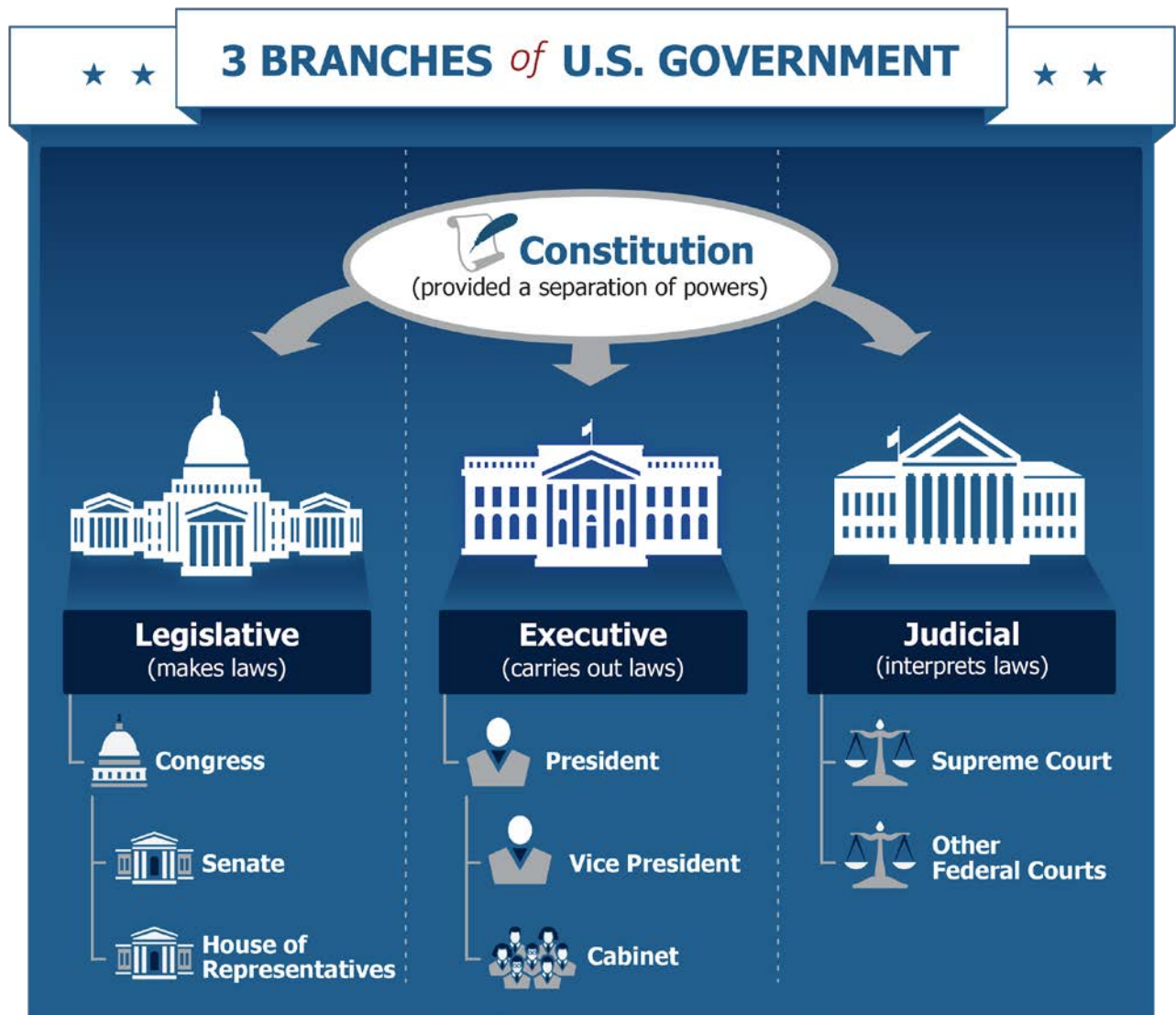
The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and **treaties** [agreements between countries] made under their authority; to all cases affecting ambassadors, other public ministers and **consuls** [an official appointed by a foreign government to live in a foreign city and protect the government’s citizens and interests there]; to all cases of **maritime** [relating to the sea] jurisdiction; to controversies to which the United States **shall be a party** [involved in]; to controversies between two or more states; between a state and citizens of another state; between citizens of different states ; . . . and between a state, or the citizens thereof, and foreign states, citizens or subjects.

In all cases affecting ambassadors and other public ministers . . . the Supreme Court shall have original **jurisdiction** [the scope of power to make legal decisions]. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the Congress may by law have directed.

Courtesy of Cornell Law School.

Lesson 4: Checks and Balances



The three branches of the federal government have separate powers and balance the power of one another (USA.gov)

How do the three branches of government balance one another?

Homework
Checks and Balances

Read the article "Checks and Balances" on the History Channel website.

Lesson 5: Federalism



Delegates at the signing of the Constitution (Wikimedia)

How do the national and state governments distribute power?

Homework Federalism

Read pages 174 and 175 in the textbook *History Alive! The United States Through Industrialism*.

Document A Madison on Federalism

The following was adapted from "Federalist Paper No. 45" by James Madison in 1787.

None of the powers given to the federal government is unnecessary or improper, the next question to be considered is, whether the whole mass of them will be dangerous to the portion of authority left in the several States. The **adversaries** [*opponents*] to the plan of the convention . . . have exhausted themselves in questioning the possible consequences of the proposed degree of power to the governments of the particular States. But if the Union, as has been shown, be essential to the security of the people of America against foreign danger . . . if, in a word, the Union be essential to the happiness of the people of America, is it not **preposterous** [*ridiculous*] . . . that such a government may detract from the importance of the governments of the individual States? . . .

On the other side, the State governments will in no instance will owe nothing to the federal government. The number of individuals employed under the federal government will be much smaller than the number employed under the particular States. . . .

The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will, for the most part, be connected.

The powers reserved to the several States will extend to all the concern of the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State. The operations of the federal government will be most extensive and important in times of war and danger; those of the State governments, in times of peace and security. As the former periods will probably bear a small proportion to the latter, the State governments will here enjoy another advantage over the federal government.

Madison, James. Federalist Paper No. 45. 1788. Courtesy of The Avalon Project, Lillian Goldman Law Library, Yale Law School.

Document B Article I, Section 8, of the Constitution

The excerpt below is from Article I, Section 8, of the Constitution, which specifies the powers of Congress. These powers are limited to those listed and any laws that are "necessary and proper" to carry them out. Otherwise, law-making power belongs to the states.

The Congress shall have Power To make and collect Taxes, to pay the Debts and provide for the common Defense and general Welfare of the United States

To borrow Money on the credit of the United States;

To regulate **Commerce** [*trade*] with foreign Nations, and among the several states, and with the Indian Tribes;

To establish a uniform Rule of **Naturalization** [*immigration and citizenship*]

To coin Money, regulate its value

To establish Post Offices and post Roads;

To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

To declare War ... and make Rules concerning Captures on Land and Water;

To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

To provide and maintain a Navy;

To make Rules for the Government and Regulation of the land and naval Forces;

To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States

To make all Laws which shall be necessary and proper for carrying into Execution these Powers, and all other Powers given by this Constitution in the Government of the United States.

Courtesy of ConstitutionCenter.gov.

Document C **The Ninth and Tenth Amendments**

The last two amendments in the Bill of Rights, Amendments Nine and Ten, establish the balance of rights and power among the federal government, the people, and the states. They form the bedrock of our system of federalism.

Ninth Amendment

Because the rights protected by the Ninth Amendment are not specified, they are referred to as unenumerated. The Supreme Court has found that unenumerated rights include such important rights as the right to travel, the right to vote, and the right to keep personal matters private and to make important decisions about one's health care or body.

The **enumeration** [*listing*] in the Constitution, of certain rights, shall not be **construed** [*interpreted*] to deny others retained by the people.

Tenth Amendment

The Federal Government is specifically given a number of powers by the Constitution, including the power to declare war, to collect taxes, to regulate interstate business activities, and others that are listed in the articles. Although the Tenth Amendment does not specify what the states or people have, the U.S. Supreme Court has ruled that laws affecting family relations (such as marriage, divorce, and adoption), trade that occurs within a state's own borders, and local law enforcement activities are among those reserved to the states or the people.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Courtesy of Annenberg Classroom.

Document D Constitutional Limitations on State Powers

Article I, Section 10, and Article VI, Clause 2, explain the formal limitations on states' powers.

Article I, Section 10, of the Constitution of the United States of America

No State shall enter into any Treaty, Alliance, or Confederation ... coin Money; ... pass any **Bill of Attainder** [*legislation declaring someone guilty of a crime without punishment*], **ex post facto Law** [*a law that makes an act illegal after the act was committed*], or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

No State shall, without the Consent of the Congress, lay any **Imposts or Duties** [*taxes*] on Imports or Exports, except what may be absolutely necessary for executing it's [*sic*] inspection Laws ... and all such Laws shall be subject to the Revision and Control of the Congress.

No State shall, without the Consent of Congress, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

Article VI, Clause 2, of the Constitution of the United States of America

Often referred to as the supremacy clause, Article VI says that when state law is in conflict with federal law, federal law must prevail. Because of the great number of federal and state laws, many of which deal with the same or similar topics, there have been many lawsuits claiming that state laws conflict with federal laws and are therefore invalid. In these lawsuits, the Supreme Court generally looks at whether Congress has established a national regulatory scheme, and if so, states cannot regulate in that area.

The court also looks at whether the state law directly interferes or is in conflict with federal law. In all these cases, the supremacy clause ensures that federal law takes priority over, or preempts, state law. The prioritizing of federal over state powers is known as the doctrine of preemption.

This Constitution, and the Laws of the United States ... and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary **notwithstanding** [*despite this*].

Courtesy of Annenberg Classroom.

Lesson 6: Local Government



Photograph of City Hall in New York City, 1913 (New York Public Library Archives)

How does local government affect citizens and their communities?

Homework

Local Government

The following text was adapted from the Leonore Annenberg Institute for Civics.

How does local government affect you?

Did you know that the level of government that most affects you daily is much closer to home than the White House, the halls of Congress, or even your state capitol building? Your local government—city council, county commissioners, etc.—is the level of governance responsible for establishing the speed limit on the streets in your town, setting rules for business, industrial and residential development, funding the public schools, and ensuring that there are adequate numbers of police and firefighters on duty. These representatives live and work in your area and have a significant impact on your life every day.

Where do local governments get their authority?

The Constitution of the United States, while outlining the authority of the federal government, does not even mention local governments. These units of authority, from the mayor's office to the county clerk, are established by individual states.

Each state grants authority to local government through written rules called charters, often detailed in the state's constitution. These charters may be specific to the **municipality** [*city or town*], as is the case with home rule charters for certain cities, or they can be based on features, like size or population, of the communities. Sometimes special charters are drafted for towns with unique situations, such as geographic distances or specialized industries.

The structure of local government varies from state to state and town to town but usually mirrors the separation of powers found in the federal government. Most towns and cities have a mayor, who serves as the city's chief executive, much like the president is to the U.S. federal government. The legislative branch of local governments is made up of a group of elected representatives, often called the city council, town council, board of commissioners, or city commission, and it serves the function of a local congress. These officials propose debate and sometimes enact new local laws and regulations. In some cities, the mayor is a voting member of the city council; in others, they simply approve or veto legislation that the council approves.

In addition to these officials, school boards are officials who are normally elected and oversee the local school district. The school board is responsible for many of the legislative decisions that affect the public school systems, from approving textbooks in the classes to managing school construction. Additional local government entities manage certain parts of the day-to-day operations of the city or town, like the zoning commission, appointed officials who manage construction permits and codes, and the parks and recreation department, overseeing public spaces in the area.

These local government bodies are usually composed of officials appointed by the mayor and are responsible for a specific function in government.

Contacting Local Representatives

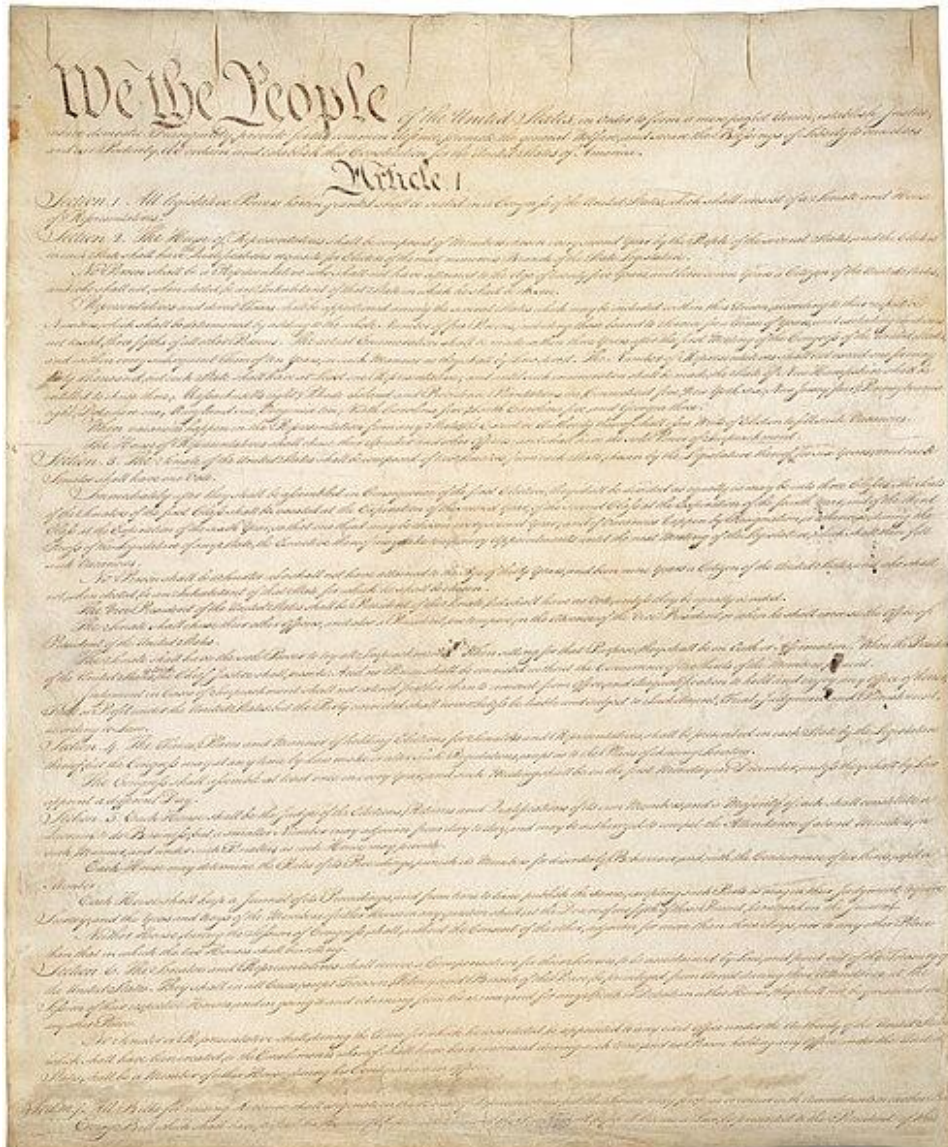
Local policy is not created solely by government officials; it takes the work and interest of the citizens they represent to help enact change. Just as it is part of every representative's duty to act on behalf of his or her constituents, it is also your duty to make sure your representatives are aware of problems and concerns that exist in your community and areas that are in need of improvements.

The first step toward communicating your views with those in office is to stay informed. Read your local newspaper and learn as much as you can about the issues you are going to present to your local officials. When a concern arises, you'll need to find out which official is responsible for addressing the issue. For example, if you are concerned about street conditions in your community, you should contact your local city council member or the streets department.

To get in touch with your local government officials, you can contact them by email, phone, or by mail.

Courtesy of Annenberg Classroom.

Lesson 7: Rights and Responsibilities of Citizenship



The first page of the Constitution (Wikimedia)

What is the role of a citizen in the American political system?

Homework
Responsibilities of U.S. Citizens

Read the article “The Responsibilities of U.S. Citizens” on the Kansas Secretary of State’s CyberCivics website.

Group 1: Homelessness and Poverty
Document A
“Combating Homelessness Today”

Read Eric Gertler’s article “Combating Homelessness Today: Looking Beyond Shelters—and Making It Easier to Get Housing” published March 26, 2017, on the New York Daily News website.



Homelessness is a widespread and long-standing issue in New York City (Wikimedia).

Group 2: Personal Privacy in the Age of Surveillance
Document A

“The Harms of Surveillance to Privacy, Expression and Association”

Read the article “The Harms of Surveillance to Privacy, Expression and Association” by Jillian York on the Global Information Society Watch website.



The National Security Agency leads intelligence collection efforts (NSA.gov).

Group 3: Pollution and Climate Change
Document A
“A Blanket Around the Earth”

The following text was adapted from “A Blanket Around the Earth” from NASA’s Global Climate Change website.

Most climate scientists agree the main cause of the current global-warming trend is human expansion of the “greenhouse effect”—warming that results when the atmosphere traps heat radiating from Earth toward space.

Certain gases in the atmosphere block heat from escaping. Long-lived gases that remain semipermanently in the atmosphere and do not respond physically or chemically to changes in temperature are described as “forcing” climate change. Gases, such as water vapor, that respond physically or chemically to changes in temperature are seen as “feedbacks.” As a result, the planet is warming, from North Pole to South Pole. And the effects of rising temperatures aren’t waiting for the distant future. Signs of the effects are appearing right now.

On Earth, human activities are changing the planet. Over the past century, the burning of fossil fuels like coal and oil has increased the concentration of atmospheric carbon dioxide (CO₂). This happens because the coal- or oil-burning process combines carbon with oxygen in the air to make CO₂. To a lesser extent, the clearing of land for agriculture, industry, and other human activities has increased concentrations of greenhouse gases.

In recent years, China has taken the lead in global-warming pollution, producing about 28 percent of all CO₂ emissions. The United States comes in second. Despite making up just 4 percent of the world’s population, we produce a whopping 16 percent of all global CO₂ emissions—as much as the European Union and India (third and fourth place) combined. And America is still number one, by far, in cumulative emissions over the past 150 years. Our responsibility matters to other countries, and it should matter to us too.

The consequences of changing the natural atmospheric greenhouse are difficult to predict, but certain effects seem likely:

- On average, Earth will become warmer. Some regions may welcome warmer temperatures, but others may not.
- A stronger greenhouse effect will warm the oceans and partially melt glaciers and other ice. Sea levels are expected to rise between seven and twenty-three inches by the end of the century, and continued melting at the poles could add between four and eight inches.
- At the same time that sea levels are rising, human population continues to grow most rapidly in flood-vulnerable, low-lying coastal zones.
- Places where famine and food insecurity are greatest in today’s world are not places where milder winters will boost crop or vegetation productivity but instead are places where rainfall will probably become less reliable, and crop productivity is expected to fall.
- The countries most vulnerable to global warming’s most serious side effects are among the poorest and least able to pay for the medical and social services and technological solutions that will be needed to adapt to climate change.
- Hurricanes and other storms are likely to become stronger.
- Floods and droughts will become more common. Rainfall in Ethiopia, where droughts are already common, could decline by 10 percent over the next 50 years.
- Less freshwater will be available. If the Quelccaya Ice Cap in Peru continues to melt at its current rate, it will be gone by 2100, leaving thousands of people who rely on it for drinking water and electricity without a source of either.

- Some diseases will spread, such as mosquito-borne malaria (and the 2016 resurgence of the Zika virus). Ecosystems will change: Some species will move farther north or become more successful; others won't be able to move and could become extinct.

In its Fifth Assessment Report, the Intergovernmental Panel on Climate Change, a group of 1,300 independent scientific experts from countries all over the world under the authority of the United Nations, concluded there's more than a 95 percent probability that human activities over the past 50 years have warmed our planet.

The industrial activities that our modern civilization depends upon have raised atmospheric carbon dioxide levels from 280 parts per million to 400 parts per million in the past 150 years. The panel also concluded there's a better than 95 percent probability that human-produced greenhouse gases such as carbon dioxide, methane, and nitrous oxide have caused much of the observed increase in Earth's temperatures over the past 50 years.

A Blanket Around the Earth. Climate.NASA.gov

Group 4: Public Transit and Infrastructure
Document A

“New York’s Subway Delays and Disruptions Are Becoming More Regular – Here’s Why”

Read the article “New York’s Subway Delays and Disruptions Are Becoming More Regular—Here’s Why” by Danielle Muoio, August 19, 2017, on the Business Insider website.



A subway station at 168th Street in Manhattan (Wikimedia)

Group 5: Voter Suppression

Document A

“Five Truths About Voter Suppression”

Read the article “Five Truths About Voter Suppression” by Conor Maxwell and Danielle Root, May 12, 2017, on the Center for American Progress website.

Lessons 9–11: Constitutional Interpretation



The Preamble of the Constitution (image from Wikimedia)

**To what extent is the Constitution
a “living document”?**

Lesson 9 Homework

“The Constitution: What the Founders Intended”

Read the article “The Constitution: What the Founders Intended” on The Week website.

Document A

Originalism: Constitutional Interpretation the Old-Fashioned Way

The following excerpt is adapted from remarks delivered by the late Supreme Court Justice Antonin Scalia at the Woodrow Wilson International Center for Scholars in Washington, D.C., March 14, 2005.

I am one of a small number of judges, small number of anybody—judges, professors, lawyers—who are known as *originalists*. Our method of interpreting the Constitution is to begin with what the text literally says and to give that text the meaning that it had back when it was adopted by the people

If your opinion is that the Constitution is built to **enact** [*put into practice*] the most fundamental values of the society, even though those values change from year to year; if you think that it is meant to reflect, as some of the Supreme Court cases say, the evolving standards of **decency** [*accepted standards of good or respectable behavior*] that demonstrate the progress of a maturing larger society—if that is what you think it is, then why in the world would you have the Constitution interpreted for all Americans by a very small group of nine lawyers sitting on the Supreme Court?

At least as an originalist, I have my rules that confine me from imposing my own personal opinions on everyone else. When I finally find it—the original meaning of the Constitution—I am handcuffed. For example, if I believe that the First Amendment meant, when it was adopted, that you are entitled to burn the American flag because one might consider that a form of free speech, I have to come out with that opinion in my role as a judge when deciding a law, even if I do not personally agree.

Scalia, Antonin. March 14, 2005. Courtesy of Boston College, BC.edu

Document B

Why Supreme Court “Originalists” Are Wrong About Living Constitutionalism

Read the interview with University of Chicago law professor David Strauss on June 3, 2010, on the U.S. News & World Report website.

Document C

Ed Whelan: Against “Living Constitutionalism”

Read the essay “The Intellectual **Vacuity** [*lack of thoughtfulness*] of ‘Living Constitutionalism’ ” by Ed Whelan on the National Review website.

Document D

Defending Our “Living Constitution”

The following is adapted from an essay published by Kirsten D. Levingston at the Brennan Center for Justice at New York University School of Law on March 13, 2008.

Acknowledging a “living constitution” does not mean that one supports the **usurpation** [*taking power illegally or by force*] of the legislative branch by judges who decide the law by using their own

personal beliefs instead of adapting the Constitution through amendments, which is a very slow process. Where the Constitution's text is **unambiguous** [*not open to more than one interpretation*], the text as written should have clear **authority** [*ultimate supremacy*] over a judge's interpretation of what it means. But where other parts contain unclear language, it is entirely proper for courts to consider the broader values underlying the Constitution, like democracy, equality, or privacy, in deciding what's constitutional and what's not, rather than what the Framers may have originally thought.

For example, in 1867's *Dred Scott v. Sanford* Supreme Court case, the U.S. Supreme Court led by Chief Justice Roger Taney struck down the Missouri Compromise, ruling that blacks could never have the freedoms and protections of the Constitution without new laws created by the legislature. This ruling is many years later recognized by all as "legally (as well as morally) inexcusable."

Chief Justice Taney justified the decision using an originalist approach, concluding that because the Framers viewed blacks as "a lesser class of beings who had been conquered by the dominant race of whites," they should have no rights or privileges except for those chosen by the people who held power and which the government might grant to them. Clearly, the originalist approach forces one to rely on old-fashioned or outdated views and social norms from hundreds of years ago.

But what would the nation be like if we were forced to wait for the legislative process to uphold constitutional values, like equality or democracy, as we face new social challenges and conditions?

Levingston, Kirsten D. Defending Our "Living Constitution". Brennan Center for Justice, BrennanCenter.org. March 13, 2008.