

Curriculum Units by Fellows of the Yale-New Haven Teachers Institute 1998 Volume IV: American Political Thought

"We, the People": New Voices in the Constitutional Debates

Curriculum Unit 98.04.02 by Sophie Bell

Who is the Constitution designed to protect? Who "the people" are is not as simple a question as it first appears to be.

This curriculum unit will introduce tenth grade United States History students to criticisms and defenses of the Constitution. The unit aims to challenge students to evaluate the Constitution's accuracy in claiming to "promote the general welfare," and is imagined to follow and culminate a traditional study of the Constitution. This unit will help students situate the Constitution within the context of the race, gender, and class dynamics of the early nation. Students will read and discuss challenging primary and secondary documents, practice oral and written debate, and have an opportunity to bring the Constitution to life through acting.

The Constitution was written by a group of people who did not mirror the diversity of the nation at the end of the 18th century. All of the delegates to the Constitutional Conventions were white, male property owners. It was obviously not in their interest to promote increased freedom or economic opportunities for women, African-Americans, Native Americans, or unpropertied men. An argument can be made that the lifestyles of the "founders" depended on the cheap labor and diminished social positions of these other groups, and that their position as elites caused the framers to draft a document that protected the status of the rich and powerful, more than general equality. Students will engage with this criticism of the Constitution, as well as developing and defending their own opinions about its strengths and weaknesses.

The unit includes reading the Constitution to understand the compromises it contains on controversial topics of the day; a discussion of a historian's criticisms of the Constitution; a panel discussion between the founders and the voices left out of the Constitutional debates; and a writing assignment in which students address themselves as citizens at the time of the debate over ratification, sending their critique of the Constitution to their state's delegate to the Connecticut ratification convention.

Several linked ideas about the teaching of history contributed to the structure of this unit. The first is the use of primary documents. Students of history will connect better with what happened in the past if they see the actual words that were written or spoken at the time. The expression used in writing, "Show, don't tell," applies to history as well. With topics like the Constitution, it is often difficult to convince students that the information is important, and miraculous if one can convince them that it is interesting. When a student reads a primary source a letter from a president's wife while he's away at the Constitutional Convention, a speech given by a Constitutional delegate she is more likely to see the humanity and the drama in the issue being

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studied. She will be better able to identify with historical figures as people in quandaries, who made difficult decisions, and less likely to think of them as simply names to place next to an event or date.

The second practice this unit employs in an effort to breathe life into the study of the past is asking students to assume, as often as possible, the roles of the people being studied. By writing or speaking as an historical actor, student enter into the historical moment. This imaginative leap almost always makes their writing more persuasive and lively. They frequently add stylistic flair and historical details they aren't motivated to when they are writing or speaking as a student to a teacher or other students.

The unit is also designed to help prepare students for the kinds of tasks they are being asked to perform in many statewide tests, such as the Connecticut Academic Performance Test. Many tests of writing and reading comprehension have become much more open-ended, and in many ways more challenging. In addition to understanding sometimes difficult readings, students need to know how to analyze and evaluate other writers' arguments, and respond with their own opinions, clearly and carefully defended. Several components of this unit give students opportunities to practice these skills of analysis and argumentation: they paraphrase and evaluate passages from the Constitution and a challenging selection from Howard Zinn's *A People's History of the United States*; they identify different reasons used by authors to support their arguments, and they advance their own arguments, supported by solid reasons.

The final aspect of this unit that needs introduction is its emphasis on issues of race, class and gender in looking at an historical issue. I feel strongly that this approach is appropriate, both because it is a "live" issue which students can identify with and think through in today's terms, and because there are historical figures who raised race, gender, and class concerns at the time of the ratification of the Constitution. Many of these figures have been ignored or de-emphasized in history textbooks.

Abigail Adams' plea to her husband to "remember the ladies" is often included in chapters on the early nation as a side issue, but is rarely integrated into a discussion of the severe double standard of Enlightenment thinking in regards to women.

Benjamin Banneker's correspondence with Thomas Jefferson is also discussed in isolation. This is a tricky topic, since Jefferson's writing about slavery in Virginia is, to the contemporary reader, so shockingly racist as to be controversial material for young readers. But as it is important for students to understand the silence about women's rights in the constitutional debates, it is also important for them to know how directly the rights of African-Americans figured, if often in veiled terms, in these discussions. Letters and speeches from this period are full of conflicting views on the future of slavery and the status of enslaved African-Americans.

Another crucial aspect of the founders' deliberations was social and economic class. Most textbooks attribute the final decision to revise and ultimately discard the Articles of confederation to Shays' Rebellion in Massachusetts. This was a class struggle, and the Constitution can be interpreted as the elite tightening of government control in reaction to a poor farmers' revolt.

The influence of the Iroquois League of Nations on the thinking that went into the Articles of Confederation and the Constitution is often mentioned and rarely explored in textbooks. This is an important opportunity for students to see Native American traditions integrated into American society at the highest level, counteracting the tendency we have to look at Native American history as an unbroken series of tragic defeats by a group of victims.

The questions which each of these lines of exploration should raise in students' minds and in discussions are

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about fairness. Does the Constitution protect Americans, as it claims to do? When it compromises, does the compromise favor both sides equally? Justice and fairness are often on the minds of adolescents, and this approach should stimulate them to engage with and think critically about the Constitution.

LESSON #1: PREAMBLE AND CONSTITUTIONAL COMPROMISES

Students will be introduced to the goals set out for the Constitution, and to the resolutions arrived at to resolve three major conflicts which arose during the writing of the Constitution.

Paraphrasing the Preamble

- 1. Student read aloud, and then in pairs paraphrase the Preamble to the Constitution.
- 2. The whole class should then review, with a common class version on the blackboard or overhead projector.
- 3. Ask students to discuss or write down a one-sentence summary of what goals the Preamble sets out for the Constitution. Read these aloud, emphasizing versions you think act as particularly effective summaries.

Evaluating Constitutional Compromises

Students will understand several conflicts which played themselves out in the writing of the Constitution. Most textbooks explain these conflicts adequately, but this unit would seek to have students locate the "compromises" we always hear about within the text of the Constitution, rather than memorizing it out of their textbook. This lesson could supplement, or possibly replace, the section in most U.S. history textbooks on the compromises in the Constitution.

- 1. Introduce the following conflicts, which arose as the framers attempted to hammer out how to deliver on the promises of the Preamble:
 - 1. Representation by person or by state
 - 2. Division of authority between the national government and the states
 - 3. Compromises over slavery

2. Ask students to refer to their textbooks and take notes on each conflict. In their notes, they should divide
their papers in half and record both who was on each side, and what reasons those groups used to defend
their position. You can make a two-column chart on the blackboard or overhead transparency to demonstrate
for them:

CONSTITUTIONAL CONFLICT:	

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SIDE A:	SIDE B	3:			
WHO WAS ON THIS SIDE:	WHO \	WAS ON TH	HIS SIDE:		
WHY THEY WERE ON THIS				ON THIS	SIDE:
	_				
REASONS THEY USED TO	CONVI	NCE			
PEOPLE THEY WERE RIGH	T:				

- 1. 1.
- 2. 2.
- 3. 3.
- 3. Students will have an opportunity to refer to the passages in the Constitution which articulate a compromise of some kind between the two sides in each conflict. If you have time, all students can work on all three compromises. If you are pressed for time, assign pairs of students to work on one compromise, then share with the class and compare with other groups what they got from the text. You could also jigsaw your groups (Groups of three work on one compromise each; groups swap members so that each new group of three contains one "expert" member on each compromise; the "experts" then teach each other about their own compromise.) if you have a class which is confident with the material.

Compromises are explained in the Constitution as follows:

1. Representation by person or by state

Article I: Section 1

Article I: Section 2, Clauses 1, 3 Article I: Section 3, Clause 1

Article II: Section 1, Clauses 2, 3, 4

2. Division of authority between the national government and the states

Article I: Section 4, Clause 1 Article I: Section 8, 9, 10 Article II: Section 2, Clause 1

Article IV

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3. Compromises over slavery

Article I: Section 2, Clause 3 Article I: Section 9, Clause 1 Article IV: Section 2, Clause 3

Article V

- 4. Students will paraphrase the compromise so that it makes sense, breaking it down into as many parts as they feel necessary to make it clear.
- 5. Students evaluate the compromise reached, in writing. Is this compromise fair? Can they think of a better compromise?
- 6. Now that they have examined three compromises which address representation in the Constitution, ask students to discuss whether or not the Constitution delivers on the promises of the Preamble.

LESSON #2: AN HISTORIAN CRITICIZES THE CONSTITUTION

Students will read an excerpt from Howard Zinn's "A People's History of the United States" in which Zinn critiques the Constitution, arguing that the framers designed the document to exclude all Americans from power who did not already have it.

Discussion questions afterwards could be distributed first to students in groups of three to five, then brought to the whole class. Such questions could include:

- 1. What types of work did the founders do?
- 2. Why does Zinn say this is significant to the purpose of the Constitution?
- 3. Describe the events in Shays' Rebellion.
- 4. How does Zinn suggest that Shays' Rebellion influenced the framers of the Constitution?

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- 5. What were James Madison's main points in Federalist Paper #10?
- 6. Why does Zinn think it was really in Madison's interest to control factions?
- 7. Zinn quotes historian Charles Beard as saying that "governments are not neutral." Why not? What do Zinn and Beard mean by this?
- 8. Why is the First Amendment arguably not as strong as is generally thought?

Once students grasp Zinn's arguments, present them with two quotes from the article, one Zinn's, the other from Bernard Bailyn, also a leading academic historian. Zinn faults Bailyn for an uncritical analysis of the Constitution. Either in class or for homework, ask students to paraphrase each argument, then choose the one which they find more convincing. Ask students to find at least three facts Zinn or their textbook provides which support the argument they chose.

The destruction of privilege and the creation of a political system that demanded of its leaders the responsible and humane use of power were their highest aspirations. ... Everyone knew the basic prescription for a wise and just government. It was so to balance the contending powers in society that no one power could overwhelm the others and, unchecked, destroy the liberties that belonged to all.

Bernard Bailyn, p. 101

Were the Founding Fathers wise and just men trying to achieve a good balance? In fact, they did not want a balance, except one which kept things as they were, a balance among the dominant forces at that time. They certainly did not want an equal balance between slaves and masters, propertyless and property holders, Indians [or women]. Howard Zinn, p. 101

Organize a class discussion, as debate-like as you are comfortable with, around the two stances. One way to organize the debate is to create a brainstorm list of factors supporting each side on the board or overhead as students talk.

LESSON #3: DEBATE: WHO DOES THE CONSTITUTION SERVE?

1. Students will work in groups to research an American figure from the late 18th century: either someone involved in the writing of the Constitution or a representative of one of the groups excluded from the debate. James Madison, Benjamin Franklin, George Washington, Hiawatha, Benjamin Banneker, Daniel Shays, and Abigail Adams.

Students will work in groups of four or five to create a panel giving their opinions of the Constitution. Each student should be assigned a role.

Group Leader Leads the group is its research efforts. Communicates with the teacher if there are any problems. Makes sure all deadlines are met. Works with Historical Figure on the position statement and the Biographical Expert to find historical pictures and to plan an accurate costume for the Historical Figure with available resources.

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Recorder Records the group's 10 biographical facts during research. Creates a name card for the Historical Figure with a visual symbol for the Historical Figure's beliefs. Works with the Biographical Expert to write and rehearse the Biographical Introduction for the Historical Figure.

Biographical Expert Writes a Biographical Introduction for the Historical Figure, to explain to the others at the Convention who the Figure is and why they are qualified to give their opinion on the Constitution. Rehearses the Biographical Introduction with the Recorder. Responsible for finding historical pictures and designing an accurate costume for the Historical Figure with available resources.

Historical Figure Writes a Position Statement explaining how the group thinks the Historical Figure really would have, or did responded to the Constitution. The Position Statement should have a clear opinion on the Constitution, and at least 3 supporting pieces of evidence to back up that opinion. The Historical Figure tries to convince the convention to view the Constitution the same way he/she does. Has veto power over costume ideas.

Instructions to Students

- 1. Research your figure, finding out 10 biographical facts about the person. The group should find facts in a mix of categories, such as: life experience, beliefs, accomplishments, connection to the Constitution. 2. Predict your figure's opinion of the Constitution. What would he/she like about it?
- 3. Read the guote from your figure and answer the following guestions:
- a) What is your figure's opinion of the Constitution? Use an excerpt from the quote that best summarizes the figure's opinion and explain what it means in your own words.
- b) What evidence does your figure provide to support his/her opinion? Find three pieces of evidence and list them in your own words.
- 4. Write a speech that your figure would deliver to the Constitutional Convention, either supporting the Constitution, or explaining a problem it has. If your figure does not like an aspect of the Constitution, ask the convention members to make a specific change. If he/she does like it, explain why a change in the Constitution would be negative.
- 5. Practice your speeches in preparation for the Constitutional Convention.

Students will prepare to enter a debate on whether the Constitution serves all Americans, or only propertied white men. They will participate in a panel-style debate, giving statements and taking questions from an audience of their peers. The teacher should act as facilitator, introducing the panel, it purpose, establishing a procedure for questions, and announcing the panel's conclusion. It is a good idea to debrief afterwards with student, to discover what they learned, what they liked, and how they felt they could have improved their performance or learned more from the activity.

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QUOTES FOR STUDENTS TO READ

Benjamin Banneker's letter to Thomas Jefferson:

"I suppose it is a truth too well attested to you, to need a proof here, that we are a race of Beings who have long laboured under the abuse and censure of the world, that we have long been looked upon with an eye of contempt, and that we have long been considered rather as brutish than human, and Scarcely capable of mental endowments.... I apprehend you will readily embrace every opportunity to eradicate that train of absurd and false ideas and opinions which so generally prevail with respect to us, and that your Sentiments are concurrent with mine."

"Here, Sir, was a time in which your tender feelings for your selves engaged you thus to declare, you were then impressed with proper ideas of the great valuation of liberty, and the free possession of those blessings to which you were entitled by nature; but Sir how pitiable it is to reflect, that although you were so fully convinced of the benevolence of the Father of mankind, and of his equal and impartial distribution of those rights and privileges which he had conferred upon them, that you should at the Same time counteract his mercies, in detaining by fraud and violence so numerous a part of my brethren under groaning captivity and cruel oppression, that you should at the same time be found guilty of that most criminal act, which you professedly detested in others, with respect to yourselves."

Benjamin Franklin at the end of the Constitutional Convention:

"I confess that I do not entirely approve of this constitution at present, but Sir, I am not sure I shall never approve it. For having lived long, I have experienced many instances of being obliged, by better information or fuller consideration, to change opinions even on important subjects, which I had once thought right, but found to be otherwise. It is therefore that the older I grow, the more apt I am to doubt my own judgment and to pay more respect to the judgment of others. ...

In these sentiments, Sir, I agree to this constitution with all its faults, if they are such. ... I doubt too whether any other convention we can obtain may be able to make a better constitution. For when you assemble a number of men to have the advantage of their joint wisdom, you inevitably assemble with those men all their prejudices, their passions, their errors of opinion, their local interests, and their selfish views. From such an assembly can a perfect political production be expected? It therefore astonishes me, Sir, to find this system approaching so near to perfection as it does. ... Thus I consent, Sir, to this Constitution because I expect no better, and because I am not sure that it is not the best. The opinions I have had of its errors I sacrifice to the public good. I have never whispered a syllable of them abroad. Within these walls they were born, and here they shall die."

James Madison, excerpt from "The Federalist #10," in which he argues that a good government controls all groups within it (He calls them "factions.") by keeping any group from getting too much control of any others. He uses this argument to defend the Constitution against charges that it gives too much control to the national government over states and individuals:

"Among the numerous advantages promised by a well constructed union, none deserves to be more accurately developed than its tendency to break and control the violence of faction. ... The instability, injustice, and confusion, introduced into the public councils, have, in truth, been the mortal diseases under which popular governments have everywhere perished. ... Complaints are everywhere heard from our most

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considerate and virtuous citizens...that our governments are too unstable; that the public good is disregarded in the conflicts of rival parties; and that measures are too often decided, not according to the rules of justice, and the rights of the minor party, but by the superior force of an interested and overbearing majority.

[Factions] account for many of our heaviest misfortunes; and, particularly, for that prevailing and increasing distrust of public engagements, and alarm for private rights, which are echoed from one end of the continent to the other.

By a faction, I understand a number of citizens, whether amounting to a majority or minority of the whole, who are united...by some common impulse of passion, or if interest, adverse to the rights of other citizens, or to the permanent...interests of the community.

[Madison then suggests that a republic, a form of government in which many people elect a few representatives to make laws for them, keeps factions from gaining power. The larger the number of people voting, he says, the harder it is for one faction to convince everybody to vote for the same person or the same cause.]

George Washington's letter, as president of the Constitutional Convention, submitting the Constitution to the President of the Congress:

"We have now the honor to submit to the consideration of the United States in Congress assembled, that Constitution which has appeared to us the most advisable.

The friends of our country have long seen and desired, that the power of making war, peace, and treaties, that of levying money and regulating commerce, and the correspondent executive and judicial authorities should be fully and effectually vested in the general government of the Union: But the impropriety of delegating such extensive trust to one body of men is evident Hence results the necessity of a different organization.

It is obviously impractical in the federal government of these states, to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all: Individuals entering into society, must give up a share of liberty to preserve the rest. The magnitude of the sacrifice must depend as well on situation and circumstances, as on the object to be obtained. It is at all times difficult to draw with precision the line between those rights which must be surrendered, and those which may be reserved; and on the present occasion this difficulty was increased by a difference among the several states as to their situation, extent, habits, and particular interests.

In all our deliberations on this subject we kept steadily in our view, that which appears to us the greatest interest of every true American, the consolidation of our Union, in which is involved our prosperity, felicity, safety, perhaps our national existence. This important consideration, seriously and deeply impressed on our minds, led each state in the Convention to be less rigid on points of inferior magnitude, than might have been otherwise expected; and thus the Constitution, which we now present, is the result of a spirit of amity, and that of mutual deference and concession which the peculiarity of our political situation rendered indispensable.

That it will meet the full and entire approbation of every state is not perhaps to be expected; but each will doubtless consider that had her interest been alone consulted, the consequences might have been particularly disagreeable or injurious to others; that it is liable to as few exceptions as could reasonably have been expected, we hope and believe; that it will promote the lasting welfare of that country so dear to us all, and

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secure her freedom and happiness, is our most ardent wish.

With great respect, We have the honor to be, Sir,

Your Excellency's most humble and obedient servants,

George Washington, President By unanimous Order of the Convention.

Abigail Adams to John Adams:

March 31, 1776

"In the new code of laws, which I suppose it will be necessary for you to make, I desire you would remember the ladies, and be more generous and favourable to them that [were] you ancestors. Do no put such unlimited power into the hands of the husbands. Remember all men would be tyrants if they could. If particular car and attention is not paid to the ladies, we are determined to [instigate] a rebellion, and will not hold ourselves bound by any laws in which we have no voice or representation.

That your sex are naturally tyrannical is a truth so thoroughly established as to admit of no dispute. But such of you as wish to be happy willingly give up the harsh title of master for the more tender and endearing one of friend. Why, then, not put it out of the power of the vicious and the lawless to use us with cruelty and indignity...? Men of sense in all ages abhor those customs which treat us only as the vassals of your sex. Regard us then as beings, placed by providence under your protection, and in imitation of the Supreme Being make use of that power only for our happiness."

John to Abigail

April 14, 1776

"As to your extraordinary code of laws, I cannot but laugh. We have been told that our struggle has loosened the bands of government everywhere. That children and apprentices were disobedient that schools and colleges were grown turbulent that Indians slighted their guardians and Negroes grew insolent to their masters. But your letter was the first intimation that anther tribe more numerous and powerful that all the rest [had] grown discontented. This is rather too coarse a compliment, but you are so saucy, I won't blot it out.

Depend upon it, we know better than to repeal our masculine systems. Although they are in full force, you know they are little more than theory. We dare not exert our power in its full latitude. We are obliged to go fair and softly, and, in practice, you know, we are the subjects. We have only the name of masters, and rather than give up this, which would completely subject us to the despotism of the petticoat, I hope General Washington, and all our brave heroes would fight ... A fine story, indeed. I begin to think the ministry as deep

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as they are wicked. After stirring up Tories, landjobbers, trimmers, bigots, Canadians, Indians, Negroes, Hanoverians, Hessians, Russians, Irish Roman Catholics, Scotch... at last they have stimulated the [women] to demand new privileges and [to] threaten to rebel."

Abigail to John

May 7, 1776

"I cannot say that I think you are very generous to the ladies. For, whilst you are proclaiming peace and good will to men, emancipating all nations, you insist upon retaining an absolute power over wives. But you must remember that arbitrary power is like most other things which are very hard very liable to be broken; and, notwithstanding all your wise laws and maxims, we have it in our power not only to free ourselves but to subdue our masters, and without violence throw both your natural and legal authority at our feet."

Amos Singletary, a farmer, at the Massachusetts State Ratifying Committee, 1788

(Use in lieu of actual words from Daniel Shays similar views.)

"Mr. President, I should not have troubled the Convention again, if some gentlemen had not called on them that were on the stage in the beginning of our troubles, in the year 1775. I was one of them. I have had the honor to be a member of the court all the time, Mr. President, and I say that, if any body had proposed such a Constitution as this in that day, it would have been thrown away at once. It would not have been looked at. We contended with Great Britain, some said for a three-penny duty on tea; but it was not that; it was because they claimed a right to tax us and bind us in all cases whatever. And does not this Constitution do the same? Does it not lay all taxes, duties, [import fees], and excises? And what more have we to give? ... These lawyers, and men of learning, and moneyed men, that talk so finely and gloss over matters so smoothly, to make us poor illiterate people swallow down the pill, expect to get into Congress themselves; they expect to be the managers of this Constitution, and get all the power and all the money into their own hands, and then they will swallow up all us little folks, like the great *Leviathan*, Mr. President; yes, just as the whale swallowed up Jonah."

Excerpt from the Constitution of the Iroquois Nations:

"I am Dekanawidah and with the Five Nations' Confederate Lords I plant the Tree of Great Peace. ... Under the shade of this Tree of the Great Peace we spread the soft white feathery down of the globe thistle as seats for you ... Lords.

We place you upon those seats, spread soft with the feathery down of the globe thistle, there beneath the shade of the spreading branches of the Tree of Peace. There shall you sit and watch the Council Fire of the Confederacy of the Five Nations, and all the affairs of the Five Nations shall be transacted at this place before you.

Roots have spread out from the Tree of the Great Peace, one to the north, one to the east, one to the south, and one to the west. The name of these roots is the Great White Roots and their name is Peace and Strength.

If any man or any nation outside the Five Nations shall obey the laws of the Great Peace and make known their disposition to the Lords of the Confederacy, they may trace the roots to the Tree and if their minds are clean and they are obedient and promise to obey the wishes of the Confederate council, they shall be welcomed to the shelter beneath the Tree of the Long Leaves.

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To you Adodarhoh, the Onondaga cousin Lords, I and the other Confederate Lords have entrusted the caretaking and the watching of the Five Nations Council fire. the Firekeepers shall formally open and close all councils of the Confederate Lords, and they shall pass upon all matters deliberated upon by the two sides to render their decision.

Mohawk chief Hiawatha, quoting from the legendary Dekaniwah speaking to the Iroquois:

"We bind ourselves together by taking hold of each others' hands so firmly and forming a circle so strong that if a tree should fall upon it, it could not shake nor break it, so that our people and grandchildren shall remain in the circle in security, peace and happiness."

LESSON #4: PERSUASIVE LETTER TO CONVENTION DELEGATE

After the debate, each students will write as a late 18th century American to their delegate at the state ratifying convention, explaining whether or not they approve of the work the delegates are doing, and why. They will also suggest any changes they feel would improve the Constitution.

These essays could usefully be evaluated according to state essay-writing rubrics, such as those available in Connecticut for the CT Mastery Test or the CT Academic Performance Test, depending on the age of your students.

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Classroom Materials

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