
American Government and Politics

The Hilldale

1776

Curriculum

HIGH SCHOOL

American Government and Politics

9 units | 45-50-minute classes

COURSE OVERVIEW

Unit 1 | The Principles of America

13-16 classes

LESSON 1 Liberty, Equality, Rights, and Self-Government

LESSON 2 The Necessities for Freedom and Self-Government

LESSON 3 Public Policy and Partisanship

Unit 2 | A Constitution of Principles

12-16 classes

LESSON 1 The Case for the Constitution

LESSON 2 The Case for Union

LESSON 3 Federalism

LESSON 4 Separation of Powers and Checks & Balances

Unit 3 | Governing in the Constitution

12-16 classes

- LESSON 1** The Congress in the Constitution
- LESSON 2** The Presidency in the Constitution
- LESSON 3** The Judiciary in the Constitution
- LESSON 4** The Bill of Rights

Unit 4 | Equality in America

16-20 classes

- LESSON 1** Self-Government vs. Slavery
- LESSON 2** Slavery and Moral Relativism
- LESSON 3** Lincoln’s Statesmanship and the End of Slavery
- LESSON 4** Civil Rights and Reconstruction

Unit 5 | Progressivism and the State

13-17 classes

- LESSON 1** Criticism of the Declaration of Independence
- LESSON 2** Politics, Leadership, and the Administrative State
- LESSON 3** The New Deal and the Great Society
- LESSON 4** Constitutionalist Responses to Progressivism

Unit 6 | Institutions and Policy

17-23 classes

- LESSON 1** Congress
- LESSON 2** The Presidency
- LESSON 3** The Bureaucracy and the Administrative State
- LESSON 4** Placeholder: State and Local Government
- LESSON 5** Domestic Policy
- LESSON 6** National Security and Foreign Policy

Unit 7 | Politics in Practice

14-18 classes

- LESSON 1** Parties, Elections, and Campaigns
- LESSON 2** Civic Participation and Public Opinion
- LESSON 3** Civic Associations and Interest Groups
- LESSON 4** The First Amendment and the Media

Unit 8 | Late 20th Century Government and Politics

15-19 classes

- LESSON 1** The Civil Rights Movement
- LESSON 2** New Progressive Movements
- LESSON 3** Major Supreme Court Decisions
- LESSON 4** Recent Debates about Equality

Capstone Conversation | The Meaning of America

4-5 classes

LESSON 1 What Is America?

LESSON 2 Challenges to America's Principles

LESSON 3 For Love of Country

Optional Civics Activities | Fostering Civic Responsibility

ACTIVITIES BY UNIT

CIVICS CLUB IDEAS

VOLUNTEERISM AND VIRTUE FORMATION IDEAS

Lesson 1 — Self-Government vs. Slavery

4-5 classes

LESSON OBJECTIVE

Students learn about the status of slavery during the American founding and the ways in which its status changed afterward.

ONLINE COURSES FOR TEACHERS | Online.Hillsdale.edu

Introduction to the Constitution

Lecture 3

Constitution 101

Lecture 6

Civil Rights in American History

Lectures 1 and 2

PRIMARY SOURCES

Students are to read or, if they have previously read, review the following primary sources. While reading, students should annotate these sources. For particularly challenging texts or if the class is offered earlier in high school, the teacher may wish to provide students with guided reading questions to assist with comprehension, clarity, and direction. Using their annotations and any guided reading questions, students should come to class prepared to participate in a seminar conversation on each text.

Statements on slavery, George Washington, John Adams, Benjamin Franklin, Alexander Hamilton, James Madison

Notes on the State of Virginia, Query 18: “Manners,” Thomas Jefferson

“What to the Slave Is the Fourth of July?” Frederick Douglass

“The Constitution of the United States: Is It Pro-Slavery or Anti-Slavery?” Frederick Douglass

Speech on the reception of abolition petitions, John C. Calhoun

Speech on the Oregon Bill, John C. Calhoun

The Perpetuation of Our Political Institutions, Abraham Lincoln

TERMS AND TOPICS

equality

Compromise of 1850

slavery

self-government

Northwest Ordinance

rule of law

abolition

civic education

cotton gin

civic religion

Missouri Compromise

statesmanship

positive good

morality

concurrent majority

political persuasion

sectionalism

political moderation

QUESTIONS FOR THE AMERICAN MIND

- How did the Founders understand the tension between slavery and the principle of equality in the Declaration of Independence?
- What was the nature of the Founders’ compromise with slavery at the time of the founding for the sake of the union? How did those who were opposed to slavery believe that slavery could be abolished only if the union were preserved?
- Why did the Founders expect that slavery would eventually die out?
- What efforts did the founding generation make to abolish slavery?
- What are the three clauses related to slavery in the Constitution? Explain each.
- In the debate leading up to the Three-Fifths Clause, how was the northerners’ insistence on limiting the value of a slave for purposes of representation an effort both to call the South’s bluff on the personhood of slaves and to prohibit disproportionate power for those who wished to defend and expand slavery?
- How did Frederick Douglass’s views on the founding with respect to slavery change during his work for abolition?
- What were the unforeseen consequences of the cotton gin, invented in 1793, four years after the adoption of the Constitution?
- What was the argument in the defense of slavery as a “positive good” that emerged among Southern apologists in the decades after the founding?
- How did the idea of slavery as a “positive good” challenge the Constitution’s stance on slavery and the path on which the founding generation had set slavery?
- How did John C. Calhoun critique the Founders on equality, natural rights, and the social contract?
- How did John C. Calhoun reject the ideas of the Declaration of Independence in arguing for slavery?
- How did John C. Calhoun’s theory of the concurrent majority differ and depart from the Founders’ constitutionalism?
- How did sectionalism rise after the founding generation?
- What was Abraham Lincoln’s understandings of the following?
 - the vulnerabilities of self-government
 - how to preserve self-government
 - the rule of law
 - the need for civic education
 - the need for civic religion
 - statesmanship
 - morality
 - political persuasion
 - political moderation

KEYS TO THE LESSON

Students should understand the Founders’ words and deeds with respect to slavery, both in their private lives and in public office. They should learn, as the 1776 Report states, that “George Washington owned slaves, but came to detest the practice, and wished for ‘a plan adopted for the abolition of it.’ By the end of his life, he freed all the slaves in his family estate.

“Thomas Jefferson also held slaves, and yet included in his original draft of the Declaration a strong condemnation of slavery, which was removed at the insistence of certain slaveholding delegates. Inscribed

in marble at his memorial in Washington, DC, is Jefferson's foreboding reference to the injustice of slavery: 'I tremble for my country when I reflect that God is just; that His justice cannot sleep forever.'

"James Madison saw to it at the Constitutional Convention that, even when the Constitution compromised with slavery, it never used the word "slave" to do so. No mere semantics, he insisted that it was 'wrong to admit in the Constitution the idea that there could be property in men.'

"Indeed, the compromises at the Constitutional Convention were just that: compromises. The Three-Fifths Compromise was proposed by an antislavery delegate to prevent the South from counting their slaves as whole persons for purposes of increasing their congressional representation. The so-called fugitive-slave clause, perhaps the most hated protection of all, accommodated pro-slavery delegates but was written so that the Constitution did not sanction slavery in the states where it existed. There is also the provision in the Constitution that forbade any restriction of the slave trade for twenty years after ratification—at which time Congress immediately outlawed the slave trade.

"The First Continental Congress agreed to discontinue the slave trade and boycott other nations that engaged in it, and the Second Continental Congress reaffirmed this policy. The Northwest Ordinance, a pre-Constitution law passed to govern the western territories (and passed again by the First Congress and signed into law by President Washington) explicitly bans slavery from those territories and from any states that might be organized there.

"Above all, there is the clear language of the Declaration itself: "We hold these truths to be self-evident, that all men are created equal." The Founders knew slavery was incompatible with *that* truth.

"It is important to remember that, as a question of practical politics, no durable union could have been formed without a compromise among the states on the issue of slavery. Is it reasonable to believe that slavery could have been abolished sooner, had the slave states not been in a union with the free? Perhaps. But what is momentous is that a people that included slaveholders founded their nation on the proposition that 'all men are created equal.'

"So why did they say that without immediately abolishing slavery? To establish the principle of consent as the ground of all political legitimacy and to check against any possible future drift toward or return to despotism, for sure. But also, in Lincoln's words, "to declare the right, so that the enforcement of it might follow as fast as circumstances should permit."

"The foundation of our Republic planted the seeds of the death of slavery in America. The Declaration's unqualified proclamation of human equality flatly contradicted the existence of human bondage and, along with the Constitution's compromises understood in light of that proposition, set the stage for abolition. Indeed, the movement to abolish slavery *that first began in the United States* led the way in bringing about the end of legal slavery.

"Benjamin Franklin was president of the Pennsylvania Society for Promoting the Abolition of Slavery, and John Jay (the first Chief Justice of the Supreme Court) was the president of a similar society in New York. John Adams opposed slavery his entire life as a 'foul contagion in the human character' and 'an evil of colossal magnitude.'

“Frederick Douglass had been born a slave but escaped and eventually became a prominent spokesman for the abolitionist movement. He initially condemned the Constitution, but after studying its history came to insist that it was a ‘glorious liberty document’ and that the Declaration of Independence was ‘the ring-bolt to the chain of your nation’s destiny.’

“And yet over the course of the first half of the nineteenth century, a growing number of Americans increasingly denied the truth at the heart of the founding. Senator John C. Calhoun of South Carolina famously rejected the Declaration’s principle of equality as ‘the most dangerous of all political error’ and a ‘self-evident lie.’ He never doubted that the Founders meant what they said.

“To this rejection, Calhoun added a new theory in which rights inhere not in every individual by ‘the Laws of Nature and of Nature’s God’ but in groups or races according to historical evolution. This new theory was developed to protect slavery—Calhoun claimed it was a ‘positive good’—and specifically to prevent lawful majorities from stopping the spread of slavery into federal territories where it did not yet exist.”

— *The 1776 Report*, pages 28–33

Teachers might best plan and teach Self-Government vs. Slavery with emphasis on the following approaches:

- Familiarize students with the views of the leading Founders on slavery. Northern Founders—most of whom were strongly opposed to slavery—and even some southern Founders who believed slavery immoral were unable to end slavery in 1776. For instance, Thomas Jefferson included a condemnation of the slave trade in the draft of the Declaration of Independence but the slaveholding interest objected to including such a statement. They continued nevertheless in the belief that a country united with the southern states would provide the best prospects for actually abolishing slavery. They concluded this because without unity, the Americans would have lost the Revolutionary War (giving up their independence and freedom to continued British rule that would perpetuate slavery anyways) or the southern colonies would have formed their own country, in which case those who opposed slavery would have no power to abolish slavery where it existed in the South (and very likely would have lost their own liberty to England or some other European colonial power). During the Civil War, Frederick Douglass made similar arguments for preserving the Union against fellow abolitionists who wanted to let the South secede with slavery intact.
- Consider with students how America is unprecedented in the history of the world because it was founded on the principle that “all men are created equal and that they are endowed by their Creator with certain unalienable rights.” Consider the view of many Founders—as well as abolitionists Abraham Lincoln and Frederick Douglass, and the meaning of the “promissory note” of Martin Luther King Jr.—that America is founded on this principle of the inherent equality of every human being based on humanity and natural rights; and that consequently, the role of the American nation and her citizens, as well as her history, has been one of trying to establish this principle in practice through a self-governing people. Almost all of the Founders recognized at the very least that the statement of the principle of equality, despite a compromise

that allowed for the pre-existing institution's continuing existence, undermined the legitimacy of slavery.

- Take the time to consider, read, and discuss the ways in which slavery was addressed in the Constitution. While the Constitution did not abolish slavery, it did place new significant, national limits on it. Indeed, at the time it was adopted, the Constitution marked one of the most significant moves to restrict slavery in the world. As Frederick Douglass and Abraham Lincoln would later acknowledge, the Declaration's principle of equality and the Constitution's arrangements gave the Founders the belief that they had placed slavery on the path to eventual extinction.
- Note for students the history-changing invention of Eli Whitney's cotton gin in 1793, four years after the adoption of the Constitution. The cotton gin would greatly increase the profitability of slavery in the cotton-growing states of the South and thereby create a significant (and regional) interest in perpetuating the institution of slavery. The new economics of slavery that would grow out of the cotton gin and the vast cotton industry questioned the assumption and changed the projection of the founding generation concerning the viability and eventual demise of slavery.
- Clarify for students the arguments of northerners and southerners concerning the Three-Fifths Clause. The clause is not about the humanity of slaves; it is strictly about how much representation slave-owning states would receive in Congress and the Electoral College. The great hypocrisy of the slaveholders was that while they refused to call a slave a human being, they insisted that each slave be counted as a whole person for purposes of representation. In fact, it was the anti-slavery Founders who did not want slaves counted at all in the Constitution for the purposes of representation, and it was an opponent of slavery who proposed the Three-Fifths Clause. The fact that slaves were only counted as three-fifths for the purposes of representation was a disappointment for southern states, as they had demanded they be counted as a whole person. It was a partial victory for northern opponents to slavery, as it would give the slaveholding states less influence in lawmaking. Additionally, students should understand that this compromise was to secure the southern support for the Constitution, without which the country would become disunited and unable to move as a nation toward eventual abolition.
- Remind students that the slave trade was not formally limited in the states (the Continental Congress had temporarily banned the practice in 1774) until the passage of the Constitution, which allowed for it to be outlawed nationwide in 1808 (which it was) and for Congress to discourage it by imposing tariffs on the slave trade in the meantime. Students should understand that without the compromise that allowed this twenty-year delay, the power to abolish the slave trade would not have been granted in the first place.
- Consider with students the significance of the Constitution not using the word "slave" and instead using "person." Refusing to use the word "slave" avoided giving legal legitimacy to slavery. Even Article IV, Section 2, Clause 3 emphasizes that slavery was legal based on certain state, not federal, laws. The use of the word "person" forced even slaveholders to recognize the humanity of the slave: that he or she was in fact a human person, not property.
- Point out for students that clauses that were not about slavery but which slaveholding interests could use to their benefit were not therefore pro-slavery clauses. Such a logical fallacy would

implicate as evil anything hijacked for use in committing a wrong act, for example, a road used by bank robbers in their getaway would be “pro-robbery.”

- Consider with students the sectional nature of views on slavery during the founding. The majority of northerners and northern Founders (e.g., John Adams, Benjamin Franklin, Benjamin Rush, Gouverneur Morris, and John Jay) spoke and wrote extensively on the immorality of slavery and its need to be abolished. Some northern Founders, such as John Jay, Alexander Hamilton, and Benjamin Franklin, founded or served in abolitionist societies.
- Consider also that even among the southern Founders who supported slavery or held slaves, several leading Founders expressed regret and fear of divine retribution for slavery in America, such as Thomas Jefferson, James Madison, and George Washington. Some freed their slaves as well, such as George Washington, who by the end of his life freed the slaves in his family estate. And many, like Thomas Jefferson, nevertheless maintained that slaves were men in full possession of the natural rights of all men. Making these observations does not diminish the inhumaneness of slavery or dismiss the wrong of racism by certain colonists or other individual Americans living in other generations.
- Ask students how to judge the Founders who owned slaves and yet supported the Declaration of Independence and Constitution. Students should consider their public and private lives as well as their words and deeds. Taken altogether, students should recognize the difficulty in assigning an absolute moral judgment that a person is entirely bad or entirely good.
- Have students also consider the distinction between judging character absolutely versus judging individual actions. When they do, students will encounter figures who did both much that was good and also some that was bad, and that this contradiction runs through the heart of every person.
- Be careful with the phrase “consider the times,” as this phrase can easily give the impression that truth and morality (good and evil) are merely relative to one’s viewpoint or historical time period. Instead, help students understand that “to consider the times” in which the American colonists and Founders lived is not to excuse moral injustices or to justify relativism. We should consider the circumstances at the time and weigh them against principles that transcend time. It’s not whitewashing or rewriting history. It is recognizing the reality of history and honestly assessing how figures at the time acted within their circumstances in light of the truth.
- Have students consider the status of slavery over the initial decades of the country’s history. At the founding, slavery was either openly condemned by northerners or defended (but seldom celebrated) by southerners. Its toleration at the time of the founding was for the sake of a unity that even many abolitionists believed was the only eventual path toward abolition. Based on the evidence at the time, many leading Founders believed slavery was naturally destined for extinction, that public opinion had steadily grown toward seeing slavery for the moral evil that it was, and that the principles of the Declaration of Independence and Revolution helped shape this public opinion and would also be the vehicle for eventual equality. The Founders also believed the Constitution restricted slavery, created a path to restricting it further (by holding the union together), and kept slavery on the path it was already travelling: to extinction. The Declaration of Independence founded the country on principles of equality that could and would be used to demand the end of slavery. The Northwest Ordinance had prohibited the expansion of slavery.

Lesson 1 — Self-Government vs. Slavery

4-5 classes

LESSON OBJECTIVE

Students learn about the status of slavery during the American founding and the ways in which its status changed afterward.

ONLINE COURSES FOR TEACHERS | Online.Hillsdale.edu

Introduction to the Constitution

Lecture 3

Constitution 101

Lecture 6

Civil Rights in American History

Lectures 1 and 2

PRIMARY SOURCES

Students are to read or, if they have previously read, review the following primary sources. While reading, students should annotate these sources. For particularly challenging texts or if the class is offered earlier in high school, the teacher may wish to provide students with guided reading questions to assist with comprehension, clarity, and direction. Using their annotations and any guided reading questions, students should come to class prepared to participate in a seminar conversation on each text.

Statements on slavery, George Washington, John Adams, Benjamin Franklin, Alexander Hamilton, James Madison

Notes on the State of Virginia, Query 18: “Manners,” Thomas Jefferson

“What to the Slave Is the Fourth of July?” Frederick Douglass

“The Constitution of the United States: Is It Pro-Slavery or Anti-Slavery?” Frederick Douglass

Speech on the reception of abolition petitions, John C. Calhoun

Speech on the Oregon Bill, John C. Calhoun

The Perpetuation of Our Political Institutions, Abraham Lincoln

TERMS AND TOPICS

equality

Compromise of 1850

slavery

self-government

Northwest Ordinance

rule of law

abolition

civic education

cotton gin

civic religion

Missouri Compromise

statesmanship

positive good

morality

concurrent majority

political persuasion

sectionalism

political moderation

QUESTIONS FOR THE AMERICAN MIND

- How did the Founders understand the tension between slavery and the principle of equality in the Declaration of Independence?
- What was the nature of the Founders' compromise with slavery at the time of the founding for the sake of the union? How did those who were opposed to slavery believe that slavery could be abolished only if the union were preserved?
- Why did the Founders expect that slavery would eventually die out?
- What efforts did the founding generation make to abolish slavery?
- What are the three clauses related to slavery in the Constitution? Explain each.
- In the debate leading up to the Three-Fifths Clause, how was the northerners' insistence on limiting the value of a slave for purposes of representation an effort both to call the South's bluff on the personhood of slaves and to prohibit disproportionate power for those who wished to defend and expand slavery?
- How did Frederick Douglass's views on the founding with respect to slavery change during his work for abolition?
- What were the unforeseen consequences of the cotton gin, invented in 1793, four years after the adoption of the Constitution?
- What was the argument in the defense of slavery as a "positive good" that emerged among Southern apologists in the decades after the founding?
- How did the idea of slavery as a "positive good" challenge the Constitution's stance on slavery and the path on which the founding generation had set slavery?
- How did John C. Calhoun critique the Founders on equality, natural rights, and the social contract?
- How did John C. Calhoun reject the ideas of the Declaration of Independence in arguing for slavery?
- How did John C. Calhoun's theory of the concurrent majority differ and depart from the Founders' constitutionalism?
- How did sectionalism rise after the founding generation?
- What was Abraham Lincoln's understandings of the following?
 - the vulnerabilities of self-government
 - how to preserve self-government
 - the rule of law
 - the need for civic education
 - the need for civic religion
 - statesmanship
 - morality
 - political persuasion
 - political moderation

KEYS TO THE LESSON

Students should understand the Founders' words and deeds with respect to slavery, both in their private lives and in public office. They should learn, as the 1776 Report states, that "George Washington owned slaves, but came to detest the practice, and wished for 'a plan adopted for the abolition of it.' By the end of his life, he freed all the slaves in his family estate.

"Thomas Jefferson also held slaves, and yet included in his original draft of the Declaration a strong condemnation of slavery, which was removed at the insistence of certain slaveholding delegates. Inscribed

in marble at his memorial in Washington, DC, is Jefferson's foreboding reference to the injustice of slavery: 'I tremble for my country when I reflect that God is just; that His justice cannot sleep forever.'

"James Madison saw to it at the Constitutional Convention that, even when the Constitution compromised with slavery, it never used the word "slave" to do so. No mere semantics, he insisted that it was 'wrong to admit in the Constitution the idea that there could be property in men.'

"Indeed, the compromises at the Constitutional Convention were just that: compromises. The Three-Fifths Compromise was proposed by an antislavery delegate to prevent the South from counting their slaves as whole persons for purposes of increasing their congressional representation. The so-called fugitive-slave clause, perhaps the most hated protection of all, accommodated pro-slavery delegates but was written so that the Constitution did not sanction slavery in the states where it existed. There is also the provision in the Constitution that forbade any restriction of the slave trade for twenty years after ratification—at which time Congress immediately outlawed the slave trade.

"The First Continental Congress agreed to discontinue the slave trade and boycott other nations that engaged in it, and the Second Continental Congress reaffirmed this policy. The Northwest Ordinance, a pre-Constitution law passed to govern the western territories (and passed again by the First Congress and signed into law by President Washington) explicitly bans slavery from those territories and from any states that might be organized there.

"Above all, there is the clear language of the Declaration itself: "We hold these truths to be self-evident, that all men are created equal." The Founders knew slavery was incompatible with *that* truth.

"It is important to remember that, as a question of practical politics, no durable union could have been formed without a compromise among the states on the issue of slavery. Is it reasonable to believe that slavery could have been abolished sooner, had the slave states not been in a union with the free? Perhaps. But what is momentous is that a people that included slaveholders founded their nation on the proposition that 'all men are created equal.'

"So why did they say that without immediately abolishing slavery? To establish the principle of consent as the ground of all political legitimacy and to check against any possible future drift toward or return to despotism, for sure. But also, in Lincoln's words, "to declare the right, so that the enforcement of it might follow as fast as circumstances should permit."

"The foundation of our Republic planted the seeds of the death of slavery in America. The Declaration's unqualified proclamation of human equality flatly contradicted the existence of human bondage and, along with the Constitution's compromises understood in light of that proposition, set the stage for abolition. Indeed, the movement to abolish slavery *that first began in the United States* led the way in bringing about the end of legal slavery.

"Benjamin Franklin was president of the Pennsylvania Society for Promoting the Abolition of Slavery, and John Jay (the first Chief Justice of the Supreme Court) was the president of a similar society in New York. John Adams opposed slavery his entire life as a 'foul contagion in the human character' and 'an evil of colossal magnitude.'

“Frederick Douglass had been born a slave but escaped and eventually became a prominent spokesman for the abolitionist movement. He initially condemned the Constitution, but after studying its history came to insist that it was a ‘glorious liberty document’ and that the Declaration of Independence was ‘the ring-bolt to the chain of your nation’s destiny.’

“And yet over the course of the first half of the nineteenth century, a growing number of Americans increasingly denied the truth at the heart of the founding. Senator John C. Calhoun of South Carolina famously rejected the Declaration’s principle of equality as ‘the most dangerous of all political error’ and a ‘self-evident lie.’ He never doubted that the Founders meant what they said.

“To this rejection, Calhoun added a new theory in which rights inhere not in every individual by ‘the Laws of Nature and of Nature’s God’ but in groups or races according to historical evolution. This new theory was developed to protect slavery—Calhoun claimed it was a ‘positive good’—and specifically to prevent lawful majorities from stopping the spread of slavery into federal territories where it did not yet exist.”

— *The 1776 Report*, pages 28–33

Teachers might best plan and teach Self-Government vs. Slavery with emphasis on the following approaches:

- Familiarize students with the views of the leading Founders on slavery. Northern Founders—most of whom were strongly opposed to slavery—and even some southern Founders who believed slavery immoral were unable to end slavery in 1776. For instance, Thomas Jefferson included a condemnation of the slave trade in the draft of the Declaration of Independence but the slaveholding interest objected to including such a statement. They continued nevertheless in the belief that a country united with the southern states would provide the best prospects for actually abolishing slavery. They concluded this because without unity, the Americans would have lost the Revolutionary War (giving up their independence and freedom to continued British rule that would perpetuate slavery anyways) or the southern colonies would have formed their own country, in which case those who opposed slavery would have no power to abolish slavery where it existed in the South (and very likely would have lost their own liberty to England or some other European colonial power). During the Civil War, Frederick Douglass made similar arguments for preserving the Union against fellow abolitionists who wanted to let the South secede with slavery intact.
- Consider with students how America is unprecedented in the history of the world because it was founded on the principle that “all men are created equal and that they are endowed by their Creator with certain unalienable rights.” Consider the view of many Founders—as well as abolitionists Abraham Lincoln and Frederick Douglass, and the meaning of the “promissory note” of Martin Luther King Jr.—that America is founded on this principle of the inherent equality of every human being based on humanity and natural rights; and that consequently, the role of the American nation and her citizens, as well as her history, has been one of trying to establish this principle in practice through a self-governing people. Almost all of the Founders recognized at the very least that the statement of the principle of equality, despite a compromise

that allowed for the pre-existing institution's continuing existence, undermined the legitimacy of slavery.

- Take the time to consider, read, and discuss the ways in which slavery was addressed in the Constitution. While the Constitution did not abolish slavery, it did place new significant, national limits on it. Indeed, at the time it was adopted, the Constitution marked one of the most significant moves to restrict slavery in the world. As Frederick Douglass and Abraham Lincoln would later acknowledge, the Declaration's principle of equality and the Constitution's arrangements gave the Founders the belief that they had placed slavery on the path to eventual extinction.
- Note for students the history-changing invention of Eli Whitney's cotton gin in 1793, four years after the adoption of the Constitution. The cotton gin would greatly increase the profitability of slavery in the cotton-growing states of the South and thereby create a significant (and regional) interest in perpetuating the institution of slavery. The new economics of slavery that would grow out of the cotton gin and the vast cotton industry questioned the assumption and changed the projection of the founding generation concerning the viability and eventual demise of slavery.
- Clarify for students the arguments of northerners and southerners concerning the Three-Fifths Clause. The clause is not about the humanity of slaves; it is strictly about how much representation slave-owning states would receive in Congress and the Electoral College. The great hypocrisy of the slaveholders was that while they refused to call a slave a human being, they insisted that each slave be counted as a whole person for purposes of representation. In fact, it was the anti-slavery Founders who did not want slaves counted at all in the Constitution for the purposes of representation, and it was an opponent of slavery who proposed the Three-Fifths Clause. The fact that slaves were only counted as three-fifths for the purposes of representation was a disappointment for southern states, as they had demanded they be counted as a whole person. It was a partial victory for northern opponents to slavery, as it would give the slaveholding states less influence in lawmaking. Additionally, students should understand that this compromise was to secure the southern support for the Constitution, without which the country would become disunited and unable to move as a nation toward eventual abolition.
- Remind students that the slave trade was not formally limited in the states (the Continental Congress had temporarily banned the practice in 1774) until the passage of the Constitution, which allowed for it to be outlawed nationwide in 1808 (which it was) and for Congress to discourage it by imposing tariffs on the slave trade in the meantime. Students should understand that without the compromise that allowed this twenty-year delay, the power to abolish the slave trade would not have been granted in the first place.
- Consider with students the significance of the Constitution not using the word "slave" and instead using "person." Refusing to use the word "slave" avoided giving legal legitimacy to slavery. Even Article IV, Section 2, Clause 3 emphasizes that slavery was legal based on certain state, not federal, laws. The use of the word "person" forced even slaveholders to recognize the humanity of the slave: that he or she was in fact a human person, not property.
- Point out for students that clauses that were not about slavery but which slaveholding interests could use to their benefit were not therefore pro-slavery clauses. Such a logical fallacy would

implicate as evil anything hijacked for use in committing a wrong act, for example, a road used by bank robbers in their getaway would be “pro-robbery.”

- Consider with students the sectional nature of views on slavery during the founding. The majority of northerners and northern Founders (e.g., John Adams, Benjamin Franklin, Benjamin Rush, Gouverneur Morris, and John Jay) spoke and wrote extensively on the immorality of slavery and its need to be abolished. Some northern Founders, such as John Jay, Alexander Hamilton, and Benjamin Franklin, founded or served in abolitionist societies.
- Consider also that even among the southern Founders who supported slavery or held slaves, several leading Founders expressed regret and fear of divine retribution for slavery in America, such as Thomas Jefferson, James Madison, and George Washington. Some freed their slaves as well, such as George Washington, who by the end of his life freed the slaves in his family estate. And many, like Thomas Jefferson, nevertheless maintained that slaves were men in full possession of the natural rights of all men. Making these observations does not diminish the inhumaneness of slavery or dismiss the wrong of racism by certain colonists or other individual Americans living in other generations.
- Ask students how to judge the Founders who owned slaves and yet supported the Declaration of Independence and Constitution. Students should consider their public and private lives as well as their words and deeds. Taken altogether, students should recognize the difficulty in assigning an absolute moral judgment that a person is entirely bad or entirely good.
- Have students also consider the distinction between judging character absolutely versus judging individual actions. When they do, students will encounter figures who did both much that was good and also some that was bad, and that this contradiction runs through the heart of every person.
- Be careful with the phrase “consider the times,” as this phrase can easily give the impression that truth and morality (good and evil) are merely relative to one’s viewpoint or historical time period. Instead, help students understand that “to consider the times” in which the American colonists and Founders lived is not to excuse moral injustices or to justify relativism. We should consider the circumstances at the time and weigh them against principles that transcend time. It’s not whitewashing or rewriting history. It is recognizing the reality of history and honestly assessing how figures at the time acted within their circumstances in light of the truth.
- Have students consider the status of slavery over the initial decades of the country’s history. At the founding, slavery was either openly condemned by northerners or defended (but seldom celebrated) by southerners. Its toleration at the time of the founding was for the sake of a unity that even many abolitionists believed was the only eventual path toward abolition. Based on the evidence at the time, many leading Founders believed slavery was naturally destined for extinction, that public opinion had steadily grown toward seeing slavery for the moral evil that it was, and that the principles of the Declaration of Independence and Revolution helped shape this public opinion and would also be the vehicle for eventual equality. The Founders also believed the Constitution restricted slavery, created a path to restricting it further (by holding the union together), and kept slavery on the path it was already travelling: to extinction. The Declaration of Independence founded the country on principles of equality that could and would be used to demand the end of slavery. The Northwest Ordinance had prohibited the expansion of slavery.

The Constitution refused to give legal standing to the institution, and many states had abolished slavery outright. Even Founders who held slaves believed the profitability of slavery was gradually but decisively waning and that slavery would die out on its own in a short period of time.

- Explain to students how the growth in population in the North would eventually allow northern states to restrict slavery further and perhaps even abolish it via a constitutional amendment. Southern slaveholders recognized that they had to expand the number of slave states if they were to prohibit such actions by northerners. The challenge, however, was that they needed northern states to acquiesce to such expansion. To do so, they appealed first to the argument that slavery was a positive good, as captured in the writings of John C. Calhoun. Students should read Calhoun's writings in order to examine his arguments and to understand how Calhoun explicitly rejected the American founding as captured in the Declaration of Independence. Students should work through and identify the serious faults in Calhoun's arguments.
- Have students read and annotate Frederick Douglass's works and follow his thoughts as he moved away from viewing the Constitution as pro-slavery.
- Spend time with students to understand Abraham Lincoln's moral and political philosophy in reading his early speeches.

STRENGTHENING UNDERSTANDING: POST-LESSON ASSIGNMENT

Assignment: Explain the ways the Founders addressed the issue of slavery during the American founding and how subsequent events and individuals changed the status of slavery between 1793 and 1850 (4–5 paragraphs).

Lesson 2 — Slavery and Moral Relativism

3-4 classes

LESSON OBJECTIVE

Students learn how Abraham Lincoln understood the nation’s division over slavery to be a question of objective moral truth, and how only in acknowledging the moral evil of slavery and working to return it to the path of extinction would America’s founding ideas be proven true.

ONLINE COURSES FOR TEACHERS | Online.Hillsdale.edu

Constitution 101

Lecture 6

Civil Rights in American History

Lectures 2 and 3

PRIMARY SOURCES

Students are to read or, if they have previously read, review the following primary sources. While reading, students should annotate these sources. For particularly challenging texts or if the class is offered earlier in high school, the teacher may wish to provide students with guided reading questions to assist with comprehension, clarity, and direction. Using their annotations and any guided reading questions, students should come to class prepared to participate in a seminar conversation on each text.

Speech at Peoria, Abraham Lincoln

Dred Scott v. Sandford

Speech on the *Dred Scott* decision, Abraham Lincoln

“House Divided” speech, Abraham Lincoln

Speech at Chicago, Stephen Douglas

The Seventh Lincoln-Douglas Debate

Address at Cooper Institute, Abraham Lincoln

Cornerstone Speech, Alexander Stephens

TERMS AND TOPICS

Kansas-Nebraska Act

Dred Scott v. Sandford

“a house divided”

popular sovereignty

majority tyranny

objective truth

moral relativism

“don’t care”

QUESTIONS FOR THE AMERICAN MIND

- What was Abraham Lincoln’s understanding of the following?
 - the vulnerabilities in self-government
 - how to preserve self-government
 - the rule of law
 - the need for civic education
 - the need for civic religion
 - statesmanship
 - morality
 - political persuasion
 - political moderation
- What did the Kansas-Nebraska Act and *Dred Scott v. Sandford* do, both in law and as a threat to public opinion on slavery at the time, and how did they contribute to the coming civil war?
- Why did Abraham Lincoln argue that it was impossible to remain a “house divided”?
- How did Abraham Lincoln try to halt the expansion of slavery and win the moral battle against it?
- Contrary to its status at the founding, how was mid-nineteenth-century slavery unlikely to die out on its own?
- What were Abraham Lincoln’s reasons not to assume that politics always progresses toward freedom?
- How did Abraham Lincoln and Stephen Douglas disagree on each of the following?
 - the meaning of the founding, the Declaration of Independence, and the Constitution
 - the meaning of self-government as either unchecked popular sovereignty and majority rule, or grounded and limited by our equal natural rights
 - the limits of democracy and the danger of majority tyranny
- As he expressed in his debates with Stephen Douglas, how did Abraham Lincoln understand equality and the injustice of slavery?
- What were Abraham Lincoln’s arguments against moral neutrality or relativism (“don’t care”) on the fundamental question of slavery?
- How was slavery the true cause of the Civil War?
- In which ways did the Confederacy reject the principle of equality from the Declaration of Independence and insist on the inequality of the races?

KEYS TO THE LESSON

“In the way our Fathers originally left the slavery question, the institution was in the course of ultimate extinction, and the public mind rested in the belief that it was in the course of ultimate extinction,’ Abraham Lincoln observed in 1858. ‘All I have asked or desired anywhere, is that it should be placed back again upon the basis that the Fathers of our government originally placed it upon.’

“This conflict was resolved, but at a cost of more than 600,000 lives. Constitutional amendments were passed to abolish slavery, grant equal protection under the law, and guarantee the right to vote regardless of race. Yet the damage done by the denial of core American principles and by the attempted substitution of a theory of group rights in their place proved widespread and long-lasting. These, indeed, are the direct ancestors of some of the destructive theories that today divide our people and tear at the fabric of our country.”

— *The 1776 Report*, pages 33–34

The passage of the Kansas-Nebraska Act in 1854 brought Abraham Lincoln back to the political arena. He saw a tremendous threat in the argument put forward by the bill’s sponsor, Stephen Douglas, namely that

slavery was not a moral question but rather one that should simply be decided by the will of the majority. From 1854 to the outbreak of the Civil War in 1861, Lincoln would combat this notion that slavery was morally relative depending on the will of the majority. Students must learn about this arc to Lincoln's words and deeds and how he took up and articulated the heart of the matter regarding slavery: that the morality of slavery struck at the very founding idea of the United States, i.e., that all men are created equal. Roger Taney's majority opinion in *Dred Scott v. Sandford* confirmed Lincoln's predictions, and Lincoln argued the same points throughout his debates with Douglas.

Teachers might best plan and teach Slavery and Moral Relativism with emphasis on the following approaches:

- Read with students parts of Lincoln's speech in Peoria in response to the Kansas-Nebraska Act. Students should understand that Lincoln saw slavery to be, above all, a moral question, and one that every American ought to take seriously as such. Lincoln also believed that moral relativism over the question of slavery, as conveyed in the idea of popular sovereignty, was antithetical to the ideas of the Declaration of Independence, and that slavery was simply a form of majority tyranny, the very danger latent in democracy that the Founders had warned against. Finally, Lincoln condemned the Kansas-Nebraska Act as achieving a complete reversal of the stance the Constitution, the Northwest Ordinance, and the founding generation had toward slavery: that it should be contained until it was abolished and by no means allowed to spread.
- Have students consider Abraham Lincoln's arguments on how Roger Taney's majority opinion in *Dred Scott v. Sandford* effectively ruled that slaves are not humans but property, and that the Constitution protects their enslavement just as it does any other property. Lincoln points out that Taney's ruling rejected the Founders' view on slavery and would lead, in tandem with Stephen Douglas's popular sovereignty, to the spread of slavery throughout the country. By extension, this reasoning would also allow for any form of majority tyranny. Put another way, Taney's argument in *Dred Scott*, the idea of "might makes right," is the same argument that animated despotic regimes like Communist Russia, Fascist Italy, or Nazi Germany.
- Help students think through Lincoln's understanding of the morality of slavery and its relationship to the founding ideas of America: that all men are created equal, have unalienable rights, and that legitimate government is based on the consent of the governed. Students should see that, although central to the Civil War, the practical question regarding the expansion of slavery ultimately turned on the moral status of slavery.
- Consider the apparently benign stance that Stephen Douglas takes in his position of popular sovereignty—that he does not care about what a group of people does regarding slavery so long as the majority opinion decides it. Students should be asked why this is problematic.
- Emphasize that the governing state known as the Confederacy was founded on the rejection of the principle of equality from the Declaration of Independence, and on an argument of the inequality of races, as asserted in Alexander Stephens's "Cornerstone Speech."

STRENGTHENING UNDERSTANDING: POST-LESSON ASSIGNMENT

Assignment: Explain how Abraham Lincoln saw slavery as a moral question and how this question was related to the moral foundation on which America was established (2–3 paragraphs).

Name _____

Date _____

Unit 4 — Formative Quiz

Covering Lessons 1-2
10-15 minutes

DIRECTIONS: Answer each question in at least one complete sentence.

1. How did those who were opposed to slavery believe that slavery could be abolished only if the union were preserved?
2. Why did the Founders expect that slavery would eventually die out?
3. How did the idea of slavery as a “positive good” challenge the Constitution’s stance on slavery and the path on which the founding generation had set slavery?
4. How did Abraham Lincoln and Stephen Douglas disagree about the limits of democracy and the danger of majority tyranny?
5. What were Abraham Lincoln’s arguments against moral neutrality or relativism (“don’t care”) on the fundamental question of slavery?

Lesson 4 — Civil Rights and Reconstruction

3-4 classes

LESSON OBJECTIVE

Students learn about the remarkable realization of civil rights for freedmen during Reconstruction and the immediate reversal of many of those realizations in Southern states with the sudden end of Reconstruction in 1877.

ONLINE COURSES FOR TEACHERS | [Online.Hillsdale.edu](https://www.online.hillsdale.edu)

Constitution 101

Lecture 7

Civil Rights in American History

Lectures 4 and 5

PRIMARY SOURCES

Students are to read or, if they have previously read, review the following primary sources. While reading, students should annotate these sources. For particularly challenging texts or if the class is offered earlier in high school, the teacher may wish to provide students with guided reading questions to assist with comprehension, clarity, and direction. Using their annotations and any guided reading questions, students should come to class prepared to participate in a seminar conversation on each text.

Civil Rights Act of 1866

13th Amendment to the Constitution

14th Amendment to the Constitution

15th Amendment to the Constitution

The Atlanta Exposition Address, Booker T. Washington

“The Talented Tenth,” W.E.B. DuBois

TERMS AND TOPICS

Civil Rights Act of 1866

13th Amendment

14th Amendment

15th Amendment

black codes

Compromise of 1877

QUESTIONS FOR THE AMERICAN MIND

- What were Abraham Lincoln’s plans for reconstruction following the Civil War, as outlined in his second inaugural address and from what we know of his private meetings in the war’s final weeks?
- Compare Andrew Johnson’s Reconstruction actions and those of the Radical Republicans.
- What did a Confederate state have to do in order to be readmitted fully into the Union?
- Regarding the 13th, 14th, and 15th Amendments, what did each do?
- What did the Ku Klux Klan Acts do?
- In which ways did Southern states attempt to curtail the rights of freedmen during Reconstruction? How did they respond to the actions of Republicans in the north?

- What kinds of gains did African Americans attain during Reconstruction after slavery was explicitly abolished via the 13th Amendment?
- What happened in the election of 1876 and in the subsequent compromise of 1877?
- What were the immediate consequences, especially for African Americans living in the South, of the end to Reconstruction in 1877?
- How do Booker T. Washington and W.E.B. DuBois agree and disagree on how to secure civil rights for African Americans? In which ways are their views each compatible with the American founding?
- Questions from the U.S. Civics Test:
 - Question 63: There are four amendments to the U.S. Constitution about who can vote. Describe one of them.
 - Question 97: What amendment gives citizenship to all persons born in the United States?
 - Question 98: When did all men get the right to vote?

KEYS TO THE LESSON

“The Thirteenth Amendment to the Constitution, passed after the Civil War, brought an end to legal slavery. Blacks enjoyed a new equality and freedom, voting for and holding elective office in states across the Union. But it did not bring an end to racism, or to the unequal treatment of blacks everywhere.

“Despite the determined efforts of the postwar Reconstruction Congress to establish civil equality for freed slaves, the postbellum South ended up devolving into a system that was hardly better than slavery. The system enmeshed freedmen in relationships of extreme dependency, and used poll taxes, literacy tests, and the violence of vigilante groups like the Ku Klux Klan to prevent them from exercising their civil rights, particularly the right to vote. Jim Crow laws enforced the strict segregation of the races and gave legal standing in some states to a pervasive subordination of blacks.

“It would take a national movement composed of people from different races, ethnicities, nationalities, and religions to bring about an America fully committed to ending legal discrimination.”

— *The 1776 Report*, Pages 40–41

Teachers might best plan and teach Civil Rights and Reconstruction with emphasis on the following approaches:

- Have students consider the effect of Abraham Lincoln’s assassination on Reconstruction and the future of America, especially as regards civil rights for African Americans. Lincoln’s focus was healing the nation while simultaneously providing for the effective and long-term establishment of equal rights for African Americans. Lincoln was succeeded after his assassination by Vice President Andrew Johnson.
- The transformation of a society away from decades of slavery was no small task. Depict Reconstruction as being tragically undermined and strained by the conflicts between congressional Republicans (who strongly opposed slavery), President Andrew Johnson (a pro-Union Democrat with little sympathy for former slaves), and lawmakers in the Southern states (who mostly wished to restrict the rights of the new freedmen), all of whom operated out of distrust following a painful and bloody Civil War.

- Have students read the three amendments to the Constitution and the laws passed during Reconstruction, especially the Civil Rights Act of 1866, related to the abolition of slavery and citizenship of freedmen. It is important to note the major and meaningful efforts Republicans made to guarantee the rights of African Americans.
- Teach students about both the important gains and protections Republicans won for African Americans during Reconstruction as well as the ways in which these were undermined by actions in the former Confederate states and Johnson himself. Students should gain an appreciation of the remarkable speed and degrees to which former slaves were incorporated into the civil body early in Reconstruction, including the thousands of African Americans who would hold office at the local, state, and even federal level. But they should also understand the ways that Johnson resisted equal treatment of African Americans and in doing so encouraged and allowed certain bad policies (such as “black codes” passed by state legislatures and movements such as what would become the Ku Klux Klan) in the former Confederacy. In fact, many of the reversals of reconstruction began during the presidential reconstruction of Johnson, who was decidedly against secession but by no means opposed to slavery. Congress repeatedly had to override his vetoes and enact Constitutional amendments to prevent his defense of inequalities. Such Congressional action, however, also laid the groundwork for the expansion of federal power into and over state law, especially through the 14th Amendment and military government.
- Have students learn about the ways in which many civil rights achievements were thwarted or undone both during and after Reconstruction. For instance, spend time discussing how as Southerners were enfranchised, African American officials were voted out of office and how “black codes” would eventually become Jim Crow laws. Discuss how “black codes” limited freedmen’s civil rights and imposed economic restrictions, including making being unemployed illegal, prohibiting landownership, requiring long-term labor contracts, prohibiting assemblies of freedmen only, prohibiting teaching freedmen to read or write, segregating public facilities, prohibiting freedmen from serving on juries, and carrying out corporal punishments for violators, among other restrictions and injustices. Note also the use of poll taxes and literacy tests to prohibit African Americans from voting.
- Teach students how Republicans passed and President Ulysses S. Grant signed into law the Ku Klux Klan Acts to prohibit intimidation of freedmen exercising their civil rights. Grant also empowered the president to use the armed forces against those who tried to deny freedmen equal protection under the laws. Nonetheless, such measures were usually sloppily enforced.
- At the same time, note the improvements during Reconstruction in building hospitals, creating a public school system, securing civil rights in principle, and fostering community within the freedmen community, especially in marital and family stability and through vibrant churches.
- Explain that Reconstruction effectively ended with the Compromise of 1877 that settled the disputed election of 1876. Congress (now controlled by the Democratic Party) would allow Republican Rutherford B. Hayes to be declared president in exchange for his withdrawing federal troops in former confederate states. Point out that in the backdrop was both continuing Southern resistance and a gradual waning of Northern zeal for (and political interest in) reform within the South.
- Ask students to consider the tragic nature of Reconstruction: a time of so much hoped for and achieved in applying the principle of equal natural rights was repeatedly undermined and mismanaged, then suddenly ended for political expediency, enabling new forms of injustice in

certain areas of the country, after a war to end injustice had consumed the lives of hundreds of thousands of Americans.

- Nevertheless, make sure students do not lose sight of the momentous achievements in liberty, equality, and self-government fulfilled because of the Civil War. Students should appreciate the very significant achievements of Lincoln and the Civil War while looking forward to future generations of Americans who would seek to live up to the fundamental principles of America in their own times.
- Following Reconstruction and in referencing American history, read with students Booker T. Washington's and W.E.B. DuBois's two sometimes complementary and sometimes competing approaches to securing equal civil rights for African Americans. These two pieces capture the major responses to Jim Crow during the late 19th and early 20th centuries.

STRENGTHENING UNDERSTANDING: POST-LESSON ASSIGNMENT

Assignment: Explain the fulfillments in civil rights during Reconstruction and the attempts to undermine and reverse these realizations during and especially after Reconstruction (2–3 paragraphs).

UNIT 5**Progressivism and the State**

45-50-minute classes | 13-17 classes

UNIT PREVIEW

Structure

LESSON 1	Criticism of the Declaration of Independence	3-4 classes	p. 7
LESSON 2	Politics, Leadership, and the Administrative State	3-4 classes	p. 11
LESSON 3	The New Deal and the Great Society	3-4 classes	p. 17
LESSON 4	Constitutionalist Responses to Progressivism	2-3 classes	p. 20
APPENDIX A	Study Guide, Test, and Writing Assignment		p. 23
APPENDIX B	Primary Sources		p. 35

Why Teach Progressivism and the State

In many respects, the United States government today looks the same as that which our forefathers drafted. Many of its principles and structures have endured, to the benefit of all mankind. But in many other ways American government, at least in how it works, has significantly departed from the American founding. It was the Progressives who began the greatest deviations from the original Constitution, fundamentally reshaping how American government functions. These changes in governing have been a challenge to the constitutional order, but before such changes were wrought in government, Progressivism challenged the very principles on which that Constitutional order was based. Progressivism was a rejection of the principles of the Declaration of Independence as well as the form of the Constitution. Young American citizens must understand why and how the government of the country they now live in was changed from what their country's Founders originally intended.

What Teachers Should Consider

From *The 1776 Report*, Pages 34-36

In the decades that followed the Civil War, in response to the industrial revolution and the expansion of urban society, many American elites adopted a series of ideas to address these changes called Progressivism. Although not all of one piece, and not without its practical merits, the political thought of Progressivism held that the times had moved far beyond the founding era, and that contemporary society was too complex any longer to be governed by principles formulated in the 18th century. To use a contemporary analogy, Progressives believed that America's original "software"—the founding documents—were no longer capable of operating America's vastly more complex "hardware": the advanced industrial society that had emerged since the founding.

More significantly, the Progressives held that truths were not permanent but only relative to their time. They rejected the self-evident truth of the Declaration that all men are created equal and are endowed equally, either by nature or by God, with unchanging rights. As one prominent Progressive historian wrote in 1922, "To ask whether the natural rights philosophy of the Declaration of Independence is true or false, is essentially a meaningless question." Instead, Progressives believed there were only group rights that are constantly redefined and change with the times. Indeed, society has the power and obligation not only to define and grant new rights, but also to take old rights away as the country develops.

Based on this false understanding of rights, the Progressives designed a new system of government. Instead of securing fundamental rights grounded in nature, government—operating under a new theory of the "living" Constitution—should constantly evolve to secure evolving rights.

In order to keep up with these changes, government would be run more and more by credentialed managers, who would direct society through rules and regulations that mold to the currents of the time. Before he became President of the United States, Woodrow Wilson laid out this new system whereby "the functions of government are in a very real sense independent of legislation, and even constitutions," meaning that this new view of government would operate independent of the people.

Far from creating an omniscient body of civil servants led only by "pragmatism" or "science," though, progressives instead created what amounts to a fourth branch of government called at times the bureaucracy or the administrative state. This shadow government never faces elections and today operates largely without checks and balances. The founders always opposed government unaccountable to the people and without constitutional restraint, yet it continues to grow around us.

How Teachers Can Learn More

TEXTS

<i>The 1776 Report</i> , The President’s Advisory 1776 Commission	Pages 34–36
<i>The U.S. Constitution: A Reader</i> , ed. Hillsdale College Politics Faculty	Chapters 10–11
<i>The State</i> , Woodrow Wilson	
“Socialism and Democracy,” Woodrow Wilson	
“Ethics and Economics,” Richard Ely	
<i>Ethics</i> , John Dewey and James Tufts	
<i>The New State</i> , Mary Parker Follett	

ONLINE COURSES | Online.Hillsdale.edu

Introduction to the Constitution
Constitution 101
Constitution 201
Civil Rights in American History

Primary Sources Studied in This Unit

“What Is Progress?” Woodrow Wilson
 “Recent Tendencies,” Charles Merriam
 “Natural Law,” Oliver Wendell Holmes Jr.
Liberalism and Social Action, John Dewey
 “The New Nationalism,” Theodore Roosevelt
 War Message to Congress, Woodrow Wilson
 Fourteen Points, Woodrow Wilson
 “Leaders of Men,” Woodrow Wilson
 “The Presidency,” Theodore Roosevelt
 “The Study of Administration,” Woodrow Wilson
 Commonwealth Club Address, Franklin Delano Roosevelt
 Democratic Convention Address, 1936, Franklin Delano Roosevelt
 Annual Message to Congress, 1941, Franklin Delano Roosevelt
 Annual Message to Congress, 1944, Franklin Delano Roosevelt
 Commencement Address at the University of Michigan, Lyndon Johnson
 “The Inspiration of the Declaration,” Calvin Coolidge
 “A Time for Choosing,” Ronald Reagan
 First Inaugural Address, Ronald Reagan

Lesson 1 — Criticism of the Declaration of Independence

3-4 classes

LESSON PREVIEW

Students learn about Progressives' evolving view of human nature, relativism concerning truth and morals, and expanding government, their assertion of group instead of individual rights, and their rejection of the philosophical principles of the American founding.

ONLINE COURSES FOR TEACHERS | Online.Hillsdale.edu

<i>Introduction to the Constitution</i>	Lecture 12
<i>Constitution 101</i>	Lecture 8
<i>Constitution 201</i>	Lectures 1, 2, 4

PRIMARY SOURCES

Students are to read or, if they have previously read, review the following primary sources. While reading, students should annotate these sources. For particularly challenging texts or if the class is offered earlier in high school, the teacher may wish to provide students with guided reading questions to assist with comprehension, clarity, and direction. Using their annotations and any guided reading questions, students should come to class prepared to participate in a seminar conversation on each text.

“What Is Progress?” Woodrow Wilson
 “Recent Tendencies,” Charles Merriam
 “Natural Law,” Oliver Wendell Holmes, Jr.
Liberalism and Social Action, John Dewey

TERMS AND TOPICS

Progressivism	special interests
relativism	monopolies
government activism	

QUESTIONS FOR THE AMERICAN MIND

- How did Progressives explain their argument that human nature, truth, and politics were inevitably evolving and improving over the course of history?
- How and why did the Progressives reject the Declaration of Independence, natural rights, and social contract theory?
- What were the Progressives' conceptions of freedom, equality, and justice?
- Why and in what ways did Progressives claim that the individual person's identity and will are bound up with the State?

- What did Progressives mean by equality? Why did they believe that creating equality of opportunity and treating everyone with equal dignity necessitated greater activism from government?
- How did Progressives critique individualism and the power of special interests, monopolies, and the wealthy in politics?
- What social reforms did Progressives pursue to deal with problems of urbanization and industrialization?
- Why did Progressives approach foreign affairs with the expectation that the world would become freer and more peaceful with the spread of democracy and international institutions?

KEYS TO THE LESSON

Students should come to understand how Progressivism, while intended to bring progress and improvement, was actually a rejection of the American founding, beginning with and especially concerning the philosophical and moral principles on which it was based. While the Progressives mostly shared the Founders' conceptions of moral conduct, they rejected the Founders' views of human nature, individual rights, equality, moral formation, and the pursuit of happiness. Students should see how these views are born partly of the changes resulting from first generations of industrialization but especially new philosophical ideas that fundamentally questioned the basis of the Founders' ideas.

Teachers might best plan and teach Criticism of the Declaration of Independence with emphasis on the following approaches:

- While scheduling may limit the study of other thinkers related to the American founding and Progressivism, it would be good for teachers to familiarize themselves with those thinkers who informed many of the earliest Progressives and Progressive thought, such as Jean-Jacques Rousseau, Georg Hegel, Karl Marx, Friedrich Nietzsche, and Charles Darwin. Spending some time to review these figures, ideas, and histories with students or at least to refer to them where appropriate may be helpful in teaching this unit as well as unit 8.
- Students should understand the Progressive critique of the American founding. Begin with practical considerations in which the Progressives juxtapose life and society at the founding to that of the Gilded Age. Then proceed to consider the theoretical differences between the Founders and the Progressives on the question of rights.
- On the practical side, lead students through considerations of how the Progressives judged the Founders to have been too focused on the individual and the value of private property ownership. Of course, the United States as a nation without titles of nobility and class distinctions understood the great importance of the ability of all Americans to acquire and hold private property. But that was by no means the sole or primary objective of the American founding. The Progressives, however, argued that the founding (and the Constitution in particular) was designed solely to protect private property and that the great changes in industry and the accumulation of capital had made the founding problem even worse by placing too much power in the hands of wealthy industrialists and large businesses.
- Help students understand that the presence of large corporations may not have been an issue in and of itself so long as individuals were still free to seek their own material prosperity. The reason

it was an issue for the Progressives was due to their second critique of the Founders, one that was more theoretical concerning the idea of rights. The Progressives rejected the Founders' insistence that rights were natural, that they were part of what made one human, and that they existed only at the individual level. Instead, they maintained that rights were conditioned on social circumstances and belong to groups of people, usually organized by class. The problem with the Founders' system of equal natural rights was that the equal protection of those rights now favored the wealthy and powerful. Progressives believed government should redefine rights according to class and group, and that government should not protect rights equally when it came to the wealthy and other "special interests." Indeed, since rights were not based on natural personhood, they were derived instead from some other source as determined by government. This means that the possession of rights is controlled by government: they can be given but also taken away by government. Rejecting the Founders' understanding of equal and unalienable rights grounded in human nature, the Progressive's argued for changing rights that were controlled by government.

- Review with students the American Founders' understanding of human nature. They understood human nature to be fixed and unchanging, good but also flawed and tending toward corrupting power. In response to human nature, government must guard against the opposite dangers of lawlessness and tyranny, accounting for the realities of human nature and rejecting the possibility of utopia. The Constitution, therefore, did not deny, demonize, or elevate human nature, but rather tried to channel the powers of human beings into constructive institutions while mitigating man's baser tendencies. In brief, the Constitution was constructed on a deep and accurate understanding of fixed human nature born of the Founders' knowledge of history, their own experience, and their prudence.
- Share with students that while both the Founders and Progressives believed in a moral foundation to politics, Progressives rejected the above-mentioned view of human nature and government as being too pessimistic and too simplistic. Progressives instead generally believed history to be evolving and automatically moving forward. That is, when looking on the technological gains, improvements in the standard of living, and the general pace of scientific discovery, Progressives believed that human beings, even human nature itself, would also improve and would be more likely to do what is right and good automatically. At the societal level, therefore, government ought to bring about that improvement and even aim to perfect human nature. Progressives rejected the Founders' argument that government's primary purpose was to secure unchanging rights and maintain a framework for self-government. Instead, they held that the purpose of government was to keep up with evolving rights and constant social change, what they called "progress."
- Explain to students how the Progressives depart from what they considered the meager understanding of rights and equality, i.e., that justice and morality require that the natural rights of individuals be equally protected. Instead, the Progressives saw government as a force not to protect rights but to grant groups of people special advantages in order to fulfill the potential outcomes of having certain rights. It was not enough, for example, to be free to earn a living if there was no job by which to earn it. It is the job of government not only to preserve the right to have a job but also perhaps to supply the job itself.

- Clarify with students that studying the philosophical, institutional, and political break that the Progressives made with the Founders does not mean that Progressives were wrong to highlight issues such as child labor, workplace and consumer safety, conservation, and monopolies (as the Founders also did). These are serious problems that ought to have been and should continue to be addressed. The point of studying the Progressives, however, is to ask whether it is the role of government to address these issues, or if private individuals, charities, businesses, consumers, churches, civic associations, and state and local governments are the most just entities to answer these problems, especially in light of students' understanding of both the American founding and Progressivism.
- Emphasize for students how such an idealistic philosophy (and idealistic view of human nature) would lead one to assume that the bad qualities of human nature (such as a desire for political power or human fallibility) is no longer a problem and that one need not worry (as the Founders did) about the distribution and separation of power within government or about the accumulated of power in any one place. What James Madison considered "the very definition of tyranny" is thus less of a concern.
- Make sure students appreciate the shift in the purpose and operation of government under such a view: government is no longer the defender of certain fundamental rights but otherwise limited to the basic functions (lawmaking, executing law, and adjudicating law) and core responsibilities (such as maintaining courts of law and the nation's security) of government. Rather, government is to be *the* active force for change in America, bringing about personal fulfillment of individuals and progress for society. Moreover, these ends were not meant to be attained merely in domestic policies but also on the world stage in foreign affairs. Woodrow Wilson's War Message to Congress articulates the spirit of Progressivism in foreign policy.

STRENGTHENING UNDERSTANDING: POST-LESSON ASSIGNMENT

Assignment: Explain how the Progressives rejected America's principles and the Founders' understandings of rights, equality, human nature, and the purpose of government (3–4 paragraphs).

Lesson 2 — Politics, Leadership, and the Administrative State

3-4 classes

LESSON PREVIEW

Students learn how Progressives reimagined the roles of elected officials and political parties to inform and lead the people toward certain Progressive goals instead of governing as representatives of the people, while leaving governance to a new fourth branch of government with almost limitless power: the federal bureaucracy.

ONLINE COURSES FOR TEACHERS | Online.Hillsdale.edu

<i>Introduction to the Constitution</i>	Lecture 12
<i>Constitution 101</i>	Lecture 8
<i>Constitution 201</i>	Lectures 1, 3, 4

PRIMARY SOURCES

Students are to read or, if they have previously read, review the following primary sources. While reading, students should annotate these sources. For particularly challenging texts or if the class is offered earlier in high school, the teacher may wish to provide students with guided reading questions to assist with comprehension, clarity, and direction. Using their annotations and any guided reading questions, students should come to class prepared to participate in a seminar conversation on each text.

“The New Nationalism,” Theodore Roosevelt
 War Message to Congress, Woodrow Wilson
 Fourteen Points, Woodrow Wilson
 “Leaders of Men,” Woodrow Wilson
 “The Presidency,” Theodore Roosevelt
 “The Study of Administration,” Woodrow Wilson

TERMS AND TOPICS

direct democracy	bureaucracy
politics	delegation
living Constitution	16th Amendment
expertise	17th Amendment
administration	18th Amendment
administrative state	

QUESTIONS FOR THE AMERICAN MIND

- In what ways did Progressives critique the Constitution as being too slow, mechanical, and at odds with itself?
- For what reasons did Progressives insist upon an “organic” constitutional arrangement that more easily allows the government to carry out the general will of the people?
- What were Progressives’ early arguments for a “living Constitution”?
- Why did the Progressives critique the separation of powers and checks and balances?
- Why did Progressives believe that many of the Founders’ worries over the dangers of tyranny, and majority tyranny, were outdated, and thus that limits and checks on the government’s power were outdated?
- In what ways did Progressives promote direct democracy?
- What was government by expertise, and why did the Progressives insist upon it?
- In what sense did Progressives argue that many political questions were essentially noncontroversial and called for technical, nonpartisan guidance?
- In what sense did Progressives believe that the main problems in politics stemmed from special interests and the prejudices of the people?
- How could these interests and prejudices be overcome by an administrative state insulated from the sway of politics that could enact the people’s true will?
- How did Progressives try to replace partisan competition, political deliberation, and interest group bargaining with good management?
- How does the administrative bureaucracy often claim the formerly separated legislative, executive, and judicial branches all for itself?
- How has Congress delegated its legislative power to the administrative state?
- How have independent regulatory agencies gained and wielded unchecked power outside the direct control of the executive branch?
- How did Progressives reframe the president as a visionary, rhetorical, and partisan leader who sets the legislative agenda and guides general legislation through Congress—legislation that usually delegates legislative, executive, and even judicial power to bureaucratic agencies?
- Questions from the U.S. Civics Test:
 - Question 5: How are changes made to the U.S. Constitution?
 - Question 32: Who elects U.S. senators?
 - Question 63: There are four amendments to the U.S. Constitution about who can vote. Describe one of them.
 - Question 71: Why is it important to pay federal taxes?

KEYS TO THE LESSON

The philosophical differences between Progressivism and the founding had many practical consequences in actual governance, both for the institutions of government and in the agents of government. Progressivism established an unofficial dividing line between those who represented the people and those who made, enforced, and judged the laws. They labeled this distinction “politics” on the one hand and “administration” on the other. Politics included those who ran for and were elected to office. Their purpose, once elected, was not actually to govern or to represent the will of the people, but rather to lead the people to desire and demand certain government outcomes. Once such a mandate for government activity was secured through the passage of general laws that stated an overall goal, the detailed tasks of the actual

creation, enforcement, and judging violations of law was left to a conglomerate of administrative experts or bureaucrats. Being insulated from the people and from politics (by not being subject to election), these experts were then to govern so as to effectively bring about the grand objectives defined in general terms by politics. Can one say that such a government arrangement is truly representative self-government? With such an arrangement, the dangers of tyranny—of the accumulation of power in a singular body unaccountable to the people—are more pressing than ever.

Teachers might best plan and teach Politics, Leadership, and the Administrative State with emphasis on the following approaches:

- Review with students the philosophical departure the Progressives made from the Founders' understanding of human nature. The Founders recognized and accounted for a permanent and unchanging human nature, and the Progressives posited an evolving and changing human nature.
- Walk students through what this new view of human nature means for the purpose of government and for practical politics and the activities of government. For Progressives, a more optimistic view of human nature made them supportive of direct democratic rule. A prime example of this change was the 17th Amendment, which required the direct election of senators. The use of initiative, referendum, and recall at the state level are other examples.
- Help students to understand the role of elected officials in this new paradigm. Elected officials are not merely to reflect consent and refine the views of the people but rather to show (or convince) the people what they should truly want through the use of rhetoric and, as Theodore Roosevelt popularized, the bully pulpit. Progressives were especially interested in the presidency as the national leader of popular opinion.
- Consider with students how this emphasis on direct democracy was to a certain extent “smoke and mirrors.” The democratic push may have worked around the power of powerful but narrow interests, at least at the time, but it certainly did not mean that more laws would be enacted through the popular institutions of government. Instead, this democratic push was mainly aimed at ascertaining the “general will” of the people through democratic processes shaping opinion to follow progressive leadership. That is, the Progressives emphasized more direct democracy to determine the general aspiration of what most people think “sounds good,” and even this was up to elected officials to show the people what that ought to be. For example, suppose most people want a general outcome (such as clean air and clean water) but powerful interests may not care as much about clean air and clean water. Expanded democratic processes make it easier and more immediate for the people to express their will about the general outcome they want. Politics is about expressing general ideas and establishing popular support to get those ideas expressed in law. Separate from this more democratic process is the difficult and less democratic task of turning general ideas into actual governance. The Progressives called this task “administration.”
- The Progressives argued that the technical and time-consuming work of actually carrying out the broad, general ideas of the law—detailing how it is to be done, implementing the laws, and making sure they are enforced to achieve their objectives—is not the work of Congress or even the President but require a new body of experts and bureaucrats to do the real work of governing (administration) outside of and not subject to politics. Congress would *delegate* some of its lawmaking power to these bureaucrats, most of whom would exist under the executive branch and so could also execute the “laws” or regulations they make (in this example, the clean air and water experts would make the specific details of the law). The president can delegate his power to enforce it. They often also are given judicial powers, and have their own courts to adjudicate

claims against their own laws and regulations. This shift of legislative, executive, and judicial powers away from the branches in which these powers had been separately vested by the people through the Constitution, and its accumulation under various departments and agencies, amounts to the second great shift in the Progressive worldview: government needed to be rearranged through the creation of the administrative state to get around the Constitution and bring about “progress.”

- Stress for students the importance of this shift away from government by representatives of the people to government by bureaucratic expertise. It strikes at the very principle of representative self-government on which the Founders established the United States and is more reminiscent of the *lack* of representation, against which the colonists revolted. Other words to characterize this view is “government by bureaucracy” or “the administrative state.”
- Emphasize how the advent of the administrative state changes the Founders’ careful insistence that powers be separated and dispersed through the separation of powers, checks and balances, and federalism, not to mention government by elected representatives. All three types of government power (legislative, executive, and judicial) are instead consolidated into bureaucratic agencies that are, moreover, almost entirely autonomous from the people. And all of this is in the name of efficiency: trusting in improved human nature and scientific expertise to achieve higher aims via government than the founding generation ever thought possible.
- It is worth asking students if such experts should be making political decisions. The role of statesmen is to consider all the various factors and people that a certain policy would affect and make the decision that best preserves the rights, freedom, and safety of the most people and the common good. That is a political decision, which requires prudence or practical wisdom, not merely expertise or technical knowledge.
- Remind students of the different ends that the Progressives had in mind when it came to the role of government. Instead of protecting, permitting, and encouraging individuals to pursue moral ends by exercising their liberty under a limited government, progressivism saw government as a social mechanism for achieving moral ends. That is, instead of assuring self-government so that a diverse people could pursue different vocations and seek different opportunities under the rule a law (meant to check the baser aspects of human nature and the desire for power), progressivism saw government as a moral force that should organize and regulate public action in order to bring about social progress. The result is that politics becomes moralized in a way that it was not previously, and also both more all-encompassing and more ideological.
- Help students to understand the various changes the Progressives made to the functioning of the government. Include in this treatment the 16th, 17th, and 18th amendments.
- In looking ahead, note how the Progressive expansion in government activity would appear less problematic, since many Progressives sometimes shared a similar moral outlook as the American Founders. But this is the crucial difference: the Founders understood and appreciated that man’s flawed human nature meant that government should remain limited and powers should not be consolidated, and that the ends of man are better served by constitutional self-government rather than government regulation of more and more aspects of society. This divide would become more problematic as the inheritors of Progressive ideas ceased to believe in the moral of civic principles that had defined America and American life.

STRENGTHENING UNDERSTANDING: POST-LESSON ASSIGNMENT

Assignment: Explain the relationship between politics and administration in Progressive government and how this arrangement and these roles depart from the American founding (2–3 paragraphs).

Name _____

Date _____

Unit 5 — Formative Quiz

Covering Lessons 1-2
10-15 minutes

DIRECTIONS: Answer each question in at least one complete sentence.

1. How did Progressives explain their argument that human nature, truth, and politics were inevitably evolving and improving over the course of history?
2. What did Progressives mean by equality? Why did they believe that creating equality of opportunity and treating everyone with equal dignity necessitated greater activism from government?
3. Why did the Progressives critique the separation of powers and checks and balances?
4. What was government by expertise, and why did the Progressives insist upon it?
5. How has Congress delegated its legislative power to the administrative state?

Lesson 3 — The New Deal and the Great Society

3-4 classes

LESSON PREVIEW

Students learn how Franklin Delano Roosevelt’s New Deal program amidst the Great Depression changed the relationship between government and the individual, and how Lyndon Johnson’s Great Society ushered in even greater government involvement in many more areas of human life.

ONLINE COURSES FOR TEACHERS | Online.Hillsdale.edu

Constitution 101

Lecture 9

Constitution 201

Lecture 6

PRIMARY SOURCES

Students are to read or, if they have previously read, review the following primary sources. While reading, students should annotate these sources. For particularly challenging texts or if the class is offered earlier in high school, the teacher may wish to provide students with guided reading questions to assist with comprehension, clarity, and direction. Using their annotations and any guided reading questions, students should come to class prepared to participate in a seminar conversation on each text.

Commonwealth Club Address, Franklin Delano Roosevelt
 Democratic Convention Address, 1936, Franklin Delano Roosevelt
 Annual Message to Congress, 1941, Franklin Delano Roosevelt
 Annual Message to Congress, 1944, Franklin Delano Roosevelt
 Commencement Address at the University of Michigan, Lyndon Johnson

TERMS AND TOPICS

The New Deal	Great Society
Second Bill of Rights	war on poverty
commerce power	welfare
Japanese internment	welfare state

QUESTIONS FOR THE AMERICAN MIND

- What was Franklin Roosevelt’s new conception of the social contract?
- Why did Franklin Roosevelt argue that rights are to be granted by the government according to the social conditions of the historical moment?
- How does this view of rights and their origin differ from the Founders’ understanding of rights?
- Beyond whether or not this is true, what great risk does such a view of rights imply (consider the case of Japanese internment)?
- What was Franklin Roosevelt’s Second Bill of Rights? How did these rights differ from the Founders’ original Bill of Rights?

- What is the theoretical foundation for entitlements and viewing them as rights?
- What is the argument that real freedom requires material security?
- During the New Deal, what was the new understanding of the Commerce Power?
- How did the New Deal and Progressivism in general weaken federalism?
- What were the ideological and practical components of Lyndon Johnson's Great Society?
- What was the war on poverty?
- What is the welfare state?

KEYS TO THE LESSON

Early Progressivism made important changes to the American constitutional order and, more importantly, established the ground and precedents for rearranging American institutions and increasing government activity in American life in a way very different from the founding principles of basic equality, liberty, and limited constitutional government. World War I put a pause on the Progressives' optimistic view of human nature and enlightened government. Calvin Coolidge's limited government policies of the 1920s witnessed rising economic opportunity that partly undercut the Progressives' claims for federal government activity to address economic issues. The Great Depression, however, allowed a second generation of Progressives to expand and cement the Progressive view of government in the American order. Students should understand how Franklin Delano Roosevelt's New Deal, despite the circumstances of the Great Depression and Roosevelt's leadership during the Second World War, dramatically expanded the size and power of the federal government while enlarging the administrative state. Lyndon Johnson's Great Society in the 1960s expanded further on the New Deal and World War II's growth in government administration and regulation by establishing larger welfare and other social programs. Johnson, moreover, attempted to expand once more the purposes of government, this time beyond the equal protection of rights of the founding and beyond the economic concerns of the early Progressives and the New Deal. For the Great Society, personal human fulfillment through government and social action was introduced as the new end of government.

Teachers might best plan and teach the New Deal and the Great Society with emphasis on the following approaches:

- Clarify for students that the chief consequence of the New Deal was the expansion and formalization of the administrative state, its bureaucratic agencies and employees, and its extensive place in American life. Students should understand that Roosevelt justified such an aggressive political shift as a response to the Great Depression. In this way, the New Deal, by greatly expanding and centrally organizing many new aspects of government, was responsible for cementing the idea of government as expert administration. As Roosevelt said in his "Commonwealth Club Address," the day of "enlightened administration" had arrived.
- Emphasize that Roosevelt saw the power of government not merely as a guarantor of the freedom to exercise natural rights but as actually guaranteeing economic conditions and assuring new economic rights. In this context, teach students about the advent of large entitlement programs in the New Deal, not just welfare programs for the poor but the general entitlement of Social Security. These programs guarantee certain benefits to groups or segments of the population, and imply that individuals have a right to such government entitlements just as or even more important than their natural rights. Roosevelt argued (in his "Second Bill of Rights" speech) that the old rights guaranteed in the Constitution were inadequate and that American required a new

economic bill of rights to guarantee employment, housing, medical care, social security, education, and even recreation. These ideas would inform future political debates over several decades.

- Note for students the effect that the New Deal had on federalism and the separation of powers. While the courts at first attempted to uphold limits on the powers of the federal government (by rejecting, for instance, attempts to delegate power to the bureaucracy) by the end of the New Deal, the Supreme Court had abandoned attempts to restrict such limits, granting Congress vast authority to legislate about anything that pertained to economic activity. And in expanding its delegations of power to the bureaucracy, Congress in turn expanded the federal government's power to regulate those activities.
- Present the Great Society as the third phase of Progressivism, and the bridge to contemporary political movements, particularly on the political Left. Lyndon Johnson's Great Society sought to broaden the focus of Progressivism while maintaining its views on rights and the purpose and methods of government. Government was not merely meant to preserve rights (as the Founders asserted), or even to achieve economic equality and fulfillment (as in early Progressivism and the New Deal). Taking Progressivism a step further, the Great Society sought to use government to achieve a kind of human fulfillment for groups of people. It sought to bring government action to areas previously not the realm of the *federal* government, such as public education.
- It is worth noting for students that although Johnson's rhetoric hinted at a spiritual nature and spiritual ends to the political body and government, his actions stayed for the most part in the realm of economics, for example in the great expansions of welfare programs such as Medicare and Medicaid. Johnson's rhetoric did attempt, however, to tap into and give voice to the cultural changes that would overtake the progressive movement in the 1960s and subsequent decades, and the Great Society launched the federal government's expanded involvement in race relations, education, and the environment. There is a certain moral fervor in these Great Society programs that models the idealism of the earlier Progressive movement.
- While worth mentioning the role of the judiciary, especially the Warren Court, in facilitating the Great Society, a closer study of some key cases related to the Great Society and underlying cultural changes is reserved for Unit 8.

STRENGTHENING UNDERSTANDING: POST-LESSON ASSIGNMENT

Assignment: Explain the ways in which the New Deal and the Great Society each expanded the administrative state and the philosophical and moral precepts Franklin Roosevelt and Lyndon Johnson cited in doing so (3–4 paragraphs).

Lesson 4 — Constitutionalist Responses to Progressivism

2-3 classes

LESSON PREVIEW

Students learn about the various ways that defenders of the old constitutional order, who employed what came to be called an originalist interpretation of the Constitution, responded to the various challenges of Progressivism, especially since the New Deal and the Great Society.

ONLINE COURSES FOR TEACHERS | Online.Hillsdale.edu

Constitution 201

Lecture 10

PRIMARY SOURCES

Students are to read or, if they have previously read, review the following primary sources. While reading, students should annotate these sources. For particularly challenging texts or if the class is offered earlier in high school, the teacher may wish to provide students with guided reading questions to assist with comprehension, clarity, and direction. Using their annotations and any guided reading questions, students should come to class prepared to participate in a seminar conversation on each text.

“The Inspiration of the Declaration,” Calvin Coolidge

“A Time for Choosing,” Ronald Reagan

First Inaugural Address, Ronald Reagan

TERMS AND TOPICS

traditionalism

libertarianism

the conservative movement

neoconservatism

Reaganism

constitutional conservatism

populism

nationalism

QUESTIONS FOR THE AMERICAN MIND

- For all of the following: what were their origins, how do they attempt to answer Progressivism, how are they distinct from one another, how might the Founders respond to them, what are their shortcomings?
 - originalism
 - traditionalism
 - libertarianism
 - the conservative movement
 - neoconservatism
 - Reaganism
 - constitutional conservatism
 - populism
 - nationalism

KEYS TO THE LESSON

Help students to understand the multifaceted and varied responses to Progressivism by constitutionalists and those who later came to be called conservatives. Students do not need to spend very much time with each of the various types of conservatism, but students should be asked how each kind of conservatism compares to America's founding principles, both philosophically and in government, as well as to Progressivism. Since many of these responses claim to "conserve" the American Founding and seek the original meaning of the Constitution, as opposed to a "living" Constitution, this is an appropriate question to consider when studying these ideas.

Teachers might best plan and teach Constitutionalist Responses to Progressivism with emphasis on the following approaches:

- Share with students the extent to which each constitutionalist or conservative movement claimed to adhere to all or specific parts of the American founding, particularly through appeals to the Declaration of Independence and an originalist reading of the Constitution.
- Read with students Calvin Coolidge's "The Inspiration of the Declaration" speech on the one hundred and fiftieth anniversary of the signing of the Declaration of Independence, and consider his description of the moral and intellectual grounding of the Declaration, in particular his statement that "If all men are created equal, that is final. If they are endowed with inalienable rights, that is final. If governments derive their just powers from the consent of the governed, that is final. No advance, no progress can be made beyond these propositions."
- Explain to students that the general tension within views emphasizing the Constitution in the modern context tend to be along a fault lines of the degree to which government is used to secure, encourage, or achieve constitutional principles, economic liberty, and the common good.
- Help students understand that the libertarian views government in the most limited sense: to securing the rule of law and economic contracts while permitting most other activities, regardless of their morality, so long as they do not immediately harm another.
- Explain how the modern conservative movement had its origins in the thought and work of William F. Buckley, who was critical of the New Deal and especially its socialistic tendencies, and of modern liberalism in general as being secular and destructive of the non-governmental intermediary institutions of society, such as churches, fraternal organizations, and the family. After the Great Society, new groups of conservatives expanded these ideas in to a broader movement. One group called neoconservatives, who had previously been progressive or liberals, emerged as critics of the welfare state and the liberalization of social policy and advocates of a strong American foreign policy. Another group of more religious conservatives, referred to as the New Right, were especially concerned about social issues arising out of government policies (especially driven by the Supreme Court) regarding abortion and the rise of secularism.
- Consider with students Ronald Reagan's ability to combine free-market economic concerns, the new concerns of the social effects of modern liberalism on American society, and concerns about America's national security (especially in the midst of the Cold War). This new consensus about conservatism sought to decrease the size of government (especially the federal government and its role in America's economy) and reestablish Constitutional limits (especially to revive federalism) while asserting American principles and national strength on the world stage.
- A particular interest of conservatism was to return the country to a proper understanding of American constitutionalism, which meant in general a respect and appreciation for the

accomplishments of the American Founding, its grounding in the principles of the Declaration of Independence, and its establishment of the rule of law and the forms of constitutional government. In particular was an emphasis on abiding by the Constitution as a ruling expression of the consent of the governed, and this brought prominence to the appointment of judges and how they should be guided by the original meaning of the Constitution rather than reading the Constitution as a “living” document that evolves with times.

- Over several decades, constitutionalism and conservatism have debated how core principles apply to contemporary political circumstances and more recently have begun to emphasize secure borders, economic nationalism, a moral outlook reflective of the founding generation, and an American-centric foreign policy as policy manifestations of those principles.

STRENGTHENING UNDERSTANDING: POST-LESSON ASSIGNMENT

Assignment: Outline the major constitutionalist or conservative positions and how they attempt to answer Progressivism and claim to adhere to the American founding (2–3 paragraphs).

Study Guide — Progressivism and the State Test

Unit 5

Test on _____

TERMS AND TOPICS

Explain each of the following and the context in which it was discussed during this unit's lessons.

Progressivism	delegation	welfare state
relativism	16th Amendment	traditionalism
government activism	17th Amendment	libertarianism
special interests	18th Amendment	fusionism
monopolies	The New Deal	the conservative movement
direct democracy	Second Bill of Rights	neoconservatism
living Constitution	Commerce Power	Reaganism
expertise	Japanese internment	constitutional conservatism
administration	Great Society	populism
administrative state	war on poverty	nationalism
bureaucracy	welfare	

PRIMARY SOURCES

Explain the main arguments in each of the following sources and the significance of each to understanding Progressivism.

“What Is Progress?” Woodrow Wilson
Liberalism and Social Action, John Dewey
 “The New Nationalism,” Theodore Roosevelt
 War Message to Congress, Woodrow Wilson
 Fourteen Points, Woodrow Wilson
 “Leaders of Men” Woodrow Wilson
 “The Study of Administration,” Woodrow Wilson
 “Commonwealth Club Address,” Franklin Delano Roosevelt
 Annual Message to Congress, 1941, Franklin Delano Roosevelt
 Annual Message to Congress, 1944, Franklin Delano Roosevelt
 Commencement Address at the University of Michigan, Lyndon Johnson
 “The Inspiration of the Declaration,” Calvin Coolidge
 “A Time for Choosing,” Ronald Reagan

QUESTIONS FOR THE AMERICAN MIND

Based on notes from lessons and seminar conversations, answer each of the following.

Lesson 1 | Criticism of the Declaration of Independence

- How did Progressives explain their argument that human nature, truth, and politics were inevitably evolving and improving over the course of history?
- How and why did the Progressives reject the Declaration of Independence, natural rights, and social contract theory?
- What were the Progressives' conceptions of freedom, equality, and justice?
- Why and in what ways did Progressives claim that the individual person's identity and will are bound up with the State?
- What did Progressives mean by equality? Why did they believe that creating equality of opportunity and treating everyone with equal dignity necessitated greater activism from government?
- How did Progressives critique individualism and the power of special interests, monopolies, and the wealthy in politics?
- What social reforms did Progressives pursue to deal with problems of urbanization and industrialization?
- Why did Progressives approach foreign affairs with the expectation that the world would become freer and more peaceful with the spread of democracy and international institutions?

Lesson 2 | Politics, Leadership, and the Administrative State

- In what ways did Progressives critique the Constitution as being too slow, mechanical, and at odds with itself?
- For what reasons did Progressives insist upon an "organic" constitutional arrangement that more easily allows the government to carry out the general will of the people?
- What were Progressives' early arguments for a "living Constitution"?
- Why did the Progressives critique the separation of powers and checks and balances?
- Why did Progressives believe that many of the Founders' worries over the dangers of tyranny, and majority tyranny, were outdated and thus that limits and checks on the government's power were outdated?
- In what ways did Progressives promote direct democracy?
- What was government by expertise and why did the Progressives insist upon it?
- In what sense did Progressives argue that many political questions were essentially noncontroversial and called for technical, nonpartisan guidance?
- In what sense did Progressives believe that the main problems in politics stemmed from special interests and the prejudices of the people?
- How could these interests and prejudices be overcome by an administrative state insulated from the sway of politics that could enact the people's true will?
- How did Progressives try to replace partisan competition, political deliberation, and interest group bargaining with good management?
- How does the administrative bureaucracy often claim the formerly separated legislative, executive, and judicial branches all for itself?
- How has Congress delegated its legislative power to the administrative state?

- How have independent regulatory agencies gained and wielded unchecked power outside the direct control of the executive branch?
- How did Progressives reframe the president as a visionary, rhetorical, and partisan leader who sets the legislative agenda and guides general legislation through Congress—legislation that usually delegates legislative, executive, and even judicial power to bureaucratic agencies?

Lesson 3 | The New Deal and the Great Society

- What was Franklin Roosevelt’s new conception of the social contract?
- Why did Franklin Roosevelt argue that rights are to be granted by the government according to the social conditions of the historical moment?
- How does this view of rights and their origin differ from the Founders’ understanding of rights?
- Beyond whether this is true, what great risk does such a view of rights imply (consider the case of Japanese internment)?
- What was Franklin Roosevelt’s Second Bill of Rights? How did those rights differ from the Founders’ original Bill of Rights?
- What is the theoretical foundation for entitlements and viewing them as rights?
- What is the argument that real freedom requires material security?
- During the New Deal, what was the new understanding of the Commerce Power?
- How did the New Deal and Progressivism in general weaken federalism?
- What were the ideological and practical components of Lyndon Johnson’s Great Society?
- What was the war on poverty?
- What is the welfare state?

Lesson 4 | Constitutionalist Responses to Progressivism

- For all of the following, what were their origins, how do they attempt to answer Progressivism, and how are they distinct from one another:
 - traditionalism
 - libertarianism
 - the conservative movement
 - neoconservatism
 - Reaganism
 - constitutional conservatism
 - populism
 - nationalism

Name _____

Date _____

Test — Progressivism and the State

Unit 5

TERMS AND TOPICS

Explain each of the following and the context in which it was discussed during this unit's lessons.

1. government activism
2. special interests
3. direct democracy
4. expertise
5. administration
6. bureaucracy
7. delegation
8. 17th Amendment
9. Second Bill of Rights
10. Commerce Power
11. Great Society
12. welfare state

13. libertarianism

14. constitutional conservatism

15. populism

PRIMARY SOURCES

Explain the main arguments in each of the following sources and the significance of each to understanding Progressivism.

16. “What Is Progress?” Woodrow Wilson

17. “Commonwealth Club Address,” Franklin Delano Roosevelt

18. Annual Message to Congress, 1944, Franklin Delano Roosevelt

19. Commencement Address at the University of Michigan, Lyndon Johnson

20. “A Time for Choosing,” Ronald Reagan

QUESTIONS FOR THE AMERICAN MIND

Answer each of the following. Complete sentences are not necessary, but correct spelling and writing should be employed, and responses must fully answer each question.

21. How did Progressives explain their argument that human nature, truth, and politics were inevitably evolving and improving over the course of history?
22. How and why did the Progressives reject the Declaration of Independence, natural rights, and social contract theory?
23. Why and in what ways did Progressives claim that the individual person’s identity and will are bound up with the State?
24. What did Progressives mean by equality? Why did they believe that creating equality of opportunity and treating everyone with equal dignity necessitated greater activism from government?
25. How did Progressives critique individualism and the power of special interests, monopolies, and the wealthy in politics?
26. Why did Progressives approach foreign affairs with the expectation that the world would become freer and more peaceful with the spread of democracy and international institutions?

27. What were Progressives' early arguments for a "living Constitution"?
28. Why did the Progressives critique the separation of powers and checks and balances?
29. Why did Progressives believe that many of the Founders' worries over the dangers of tyranny, and majority tyranny, were outdated and thus that limits and checks on the government's power were outdated?
30. What was government by expertise, and why did the Progressives insist upon it?
31. How has Congress delegated its legislative power to the administrative state?
32. Why did Franklin Roosevelt argue that rights are to be granted by the government according to the social conditions of the historical moment?
33. How did the New Deal and Progressivism in general weaken federalism?
34. What were the ideological and practical components of Lyndon Johnson's Great Society?
35. What were the origins of Reaganism, and how did it attempt to answer Progressivism?

Writing Assignment — Progressivism and the State

Unit 5

Due on _____

DIRECTIONS

Citing primary sources and conversations from class in your argument, write a 500–800-word essay answering the question:

How did the early Progressives, the New Deal, and the Great Society each criticize and depart from the American founding with respect to the principles of the Declaration of Independence and the principles and structures of the Constitution?

Lesson 1 — Parties, Elections, and Campaigns

4-5 classes

LESSON OBJECTIVE

Students learn how representative self-government is achieved through the constitutional framework for elections, the Electoral College, the election process, political parties, and campaigns.

ONLINE COURSES FOR TEACHERS | Online.Hillsdale.edu

Introduction to the Constitution

Lecture 10

TEXTS

Students should read the text below and come to class prepared to complete a short reading quiz on the contents of the readings. The reading quiz should be based on the questions on pages 286–287 and 316 of *American Government and Politics*.

American Government and Politics

Chapters 9–10

TERMS AND TOPICS

political party
Electoral College
proportional vote
popular vote
winner-take-all
party realignment
caucus
king caucus
ballot
split ticket
tabulation
divided government
platform

Federal Election Commission
referendum
recall
initiative
general election
primary/primary election
voter turnout
gerrymandering
incumbent
incumbency advantage
PAC/super PAC
campaign advertisements

QUESTIONS FOR THE AMERICAN MIND

- What does it mean to have free and fair elections?
- What is the significance of “ballots over bullets”?
- What are the major party realignments, when did they happen, and what were the consequences?
- What has happened to local parties? How did this happen? What are the consequences?
- What was the purpose of the Electoral College? How does it work?
- Why do we have two parties? What are the advantages and disadvantages of this system?

- Why have third parties historically been unable to gain a foothold in the election process?
- Why was the election of 1800 so important?
- What was the change in the party system that happened in the New Deal era?
- Why do incumbents usually win elections even when people are unsatisfied with the institution?
- What makes gerrymandering possible, and what are the advantages and disadvantages of this process?
- How do candidates finance their campaigns?
- Questions from the U.S. Civics Test:
 - Question 1: What is the form of government of the United States?
 - Question 4: The U.S. Constitution starts with the words “We the People.” What does “We the People” mean?
 - Question 22: How long is a term for a U.S. Senator?
 - Question 25: How long is a term for a member of the House of Representatives?
 - Question 32: Who elects U.S. senators?
 - Question 34: Who elects members of the House of Representatives?
 - Question 36: The President of the United States is elected for how many years?
 - Question 64: Who can vote in federal elections, run for federal office, and serve on a jury in the United States?
 - Question 69: What are two examples of civic participation in the United States?
 - Question 70: What is one way Americans can serve their country?
 - Question 119: What is the capital of the United States?

KEYS TO THE LESSON

If there is one practice that is the most famous gesture of American life, it is the holding of elections. Indeed, the foundational governing principle of America—that of representative self-government—is expressed and achieved through elections. Freely voting for our neighbors to represent our views in making and enforcing laws—and to have confidence that the process for doing so is fair and just—is the bedrock of American representative democracy, the great achievement of the founding and the envy of oppressed peoples throughout the world and down through the ages. Students should appreciate these facts and also understand how this process of choosing representatives works: both how it was originally intended to work and how it has changed over the centuries to the political process of today.

Teachers might best plan and teach Parties, Elections, and Campaigns with emphasis on the following approaches:

- Explain to students how the American Founders structured the election process. Note the great deference in matters of elections that the Founders gave to state legislatures in particular. The reason they lodged this power for establishing election procedures in state legislatures is so that a separate elected body responsive to the people of a certain area would be accountable to the people for how the elections are conducted in that area. The key was, as much as possible, to make sure that those who establish election procedure were accountable to the people of a whole state, thus dispersing the potential for election fraud and corruption. This is the same reason why redrawing congressional districts is also left up to the state legislatures.
- Explain the one major nationally directed election, that of the president. Explain what the Electoral College is, how it works, and why. Chief goals for the Founders in establishing the

Electoral College for choosing the president were twofold. First, by dividing the electorate into geographic groups by state, the Electoral College forces presidential candidates to recognize and incorporate the interests of more rural and remote citizens instead of only the interests of citizens who live in high-density areas, where it is easiest and most efficient to campaign. This arrangement has arguably prevented the division of American citizens into a ruling class of cities and a colony class of rural dwellers, whose interests and needs are ignored. Second, the Electoral College was meant to allow its electors to deny someone the presidency should the electors determine that the candidate was a demagogue or might act tyrannically. Students should understand that many state legislatures have both allotted the state's electoral vote to the winner of the state's popular vote and have required that electors be faithful to that outcome, thus undermining the second purpose of the Electoral College. The first goal, however, remains in place, except in those states that have required their state electors to follow the national popular vote.

- Walk students through the election process.
- Review with students the emergence of parties and how they have changed in history to their current form, particularly the changes from the founding generation and those that took place during the Progressive era.
- Emphasize how it is the parties that determine the vast majority of what happens in the election process and who ends up on a ballot. Students should recognize that one of the most influential roles ordinary citizens can have in the official election process is being involved in the leadership of political parties, beginning at the local level. In fact, it was the focus on the local party that was the traditional place to practice self-government in the United States. Politicians first gained power in their local communities, where they had to develop a good reputation before becoming part of the national system. This meant they were personally tied to their local communities and the issues therein. This enabled local issues to be considered by national politicians as well. Students should understand that while this tradition may still be the most congruent with the intentions of the Founders and with much of American history, in recent decades national parties often dictate the direction of a party based on national priorities, rather than local parties and the issues they seek to address.
- Share with students how campaigns work and the various ways in which candidates attempt to secure citizens' votes.
- Consider the relationship between elected officials and their constituents. Not only do relatively few Americans know who their representatives are or who governs them, the representative himself or herself has increasingly been separated from his or her constituency in terms of geography—and especially by lifestyle and economic status. Have students consider what effect this has on self-government.
- Have students consider why so many people do not know who governs them. Help them to understand that politicians used to be part of the community and not separate from it. Ask them what this separation does to politicians, to politics, and to the people governed by such representatives.

STRENGTHENING UNDERSTANDING: POST-LESSON ASSIGNMENT

Assignment: Explain how elections are the embodiment of representative self-government and how political parties and campaigns may honor or subvert that principle in how they choose and support candidates (2–3 paragraphs).

Lesson 2 — Civic Participation and Public Opinion

3-4 classes

LESSON OBJECTIVE

Students learn about how public opinion shapes personal opinion and how civic participation can influence election outcomes.

TEXTS

Students should read the text below and come to class prepared to complete a short reading quiz on the contents of the reading. The reading quiz should be based on questions from pages 233–234 of *American Government and Politics*.

American Government and Politics

Chapters 4 and 7

Students are to read or, if they have previously read, review the following primary source. While reading, students should annotate these sources. For particularly challenging texts or if the class is offered earlier in high school, the teacher may wish to provide students with guided reading questions to assist with comprehension, clarity, and direction. Using their annotations and any guided reading questions, students should come to class prepared to participate in a seminar conversation on each text.

Seneca Falls “Declaration of Sentiments and Resolutions,” Elizabeth Cady Stanton

TERMS AND TOPICS

citizen	19th Amendment
citizenship	turnout
13th, 14th, 15th, and 19th Amendments	political participation
<i>Worcester v. Georgia</i>	liberal
Dawes Act	conservative
Indian Citizenship Act	moderate
birthright citizenship	independent
naturalization	libertarian
assimilation	populist
melting pot	voter registration
public opinion poll	polling
suffrage	poll tax
	social media

QUESTIONS FOR THE AMERICAN MIND

- What were the limits on voting at the time of the founding? While these were limits compared to today, how did they compare to practices in human history up to the time of the founding?
- How has suffrage been expanded since the founding?

- Why are polls often inaccurate measures of public opinion?
- How do citizens learn about or become influenced by public opinion?
- How has new technology (social media) impacted how public opinion is spread and understood?
- What are direct and indirect means of political participation?
- Should everyone choose to exercise their right to vote? Why or why not?
- Questions from the U.S. Civics Test:
 - Question 1: What is the form of government of the United States?
 - Question 4: The U.S. Constitution starts with the words “We the People.” What does “We the People” mean?
 - Question 63: There are four amendments to the U.S. Constitution about who can vote. Describe one of them.
 - Question 64: Who can vote in federal elections, run for federal office, and serve on a jury in the United States?
 - Question 68: How can people become United States citizens?
 - Question 69: What are two examples of civic participation in the United States?
 - Question 70: What is one way Americans can serve their country?
 - Question 97: What amendment gives citizenship to all persons born in the United States?
 - Question 98: When did all men get the right to vote?
 - Question 102: When did all women get the right to vote?

KEYS TO THE LESSON

In human history, the right to vote is extraordinarily, almost miraculously, rare. It is yet another of the many privileges and benefits that Americans have and that are so easily taken for granted. This right to vote and the holding of elections lies at the heart of representative self-government, as it is this action and this process through which the people give consent to the laws under which they conduct all their other actions. It is thus important that as many legal voters be enabled to vote as wish to do so, that they vote only once, that their vote counts so long as it abides by the process, and that those who do not have a legal right to vote are not permitted to do so. Students should also recognize, however, how their views when they go to vote are often influenced by the prevailing opinion shared in the community. This public opinion can be shaped not only by the combination of views of the people, but also by individual leaders or powerful groups, including the media and, at present, social media. Beyond voting and running for office, students should recognize the other ways in which citizens may and should seek to fulfill their responsibilities as free citizens, including being well-informed, making their views heard at government meetings, generally abiding by the law, and respecting and assisting others.

Teachers might best plan and teach Civic Participation and Public Opinion with emphasis on the following approaches:

- Discuss with students what a citizen is and the meaning, rights, and responsibilities of citizenship. Survey and discuss with students the various amendments to the Constitution that concern citizenship, namely the 13th, 14th, 15th, and 19th Amendments. Include conversations on birthright citizenship and the naturalization process, the various responsibilities held by citizens such as respecting the rule of law, voting, volunteering, staying well-informed, and exhibited personal virtue and a responsible use of time, talents, and resources.

- Students should gain a clear perspective on voting in human history. In brief, this privilege has been exceptionally rare and, therefore, the American citizen's right to vote is a remarkable achievement. And nearly all of the groundbreaking moments in this achievement occurred in American history. The American colonies, for instance, were one of the few places in history where most ordinary male citizens of European descent were permitted to vote. The rule in history has been that one person made the law (monarchy) or a few did so (oligarchy). That most male citizens, even though still restricted to those of European descent, were allowed to vote in the American colonies is therefore a consequential development in world history, a significant step toward universal suffrage.
- Explain to students how women, African Americans, and men who did not own property were generally, though not always, prohibited from voting. At the Founding, every state north of Pennsylvania allowed free African Americans to vote. Students should appreciate the historic gains the American people made securing the right to vote for each of these groups while also recognizing that their original curtailment was more the rule than the exception in human history, not a phenomenon unique to America. What was unique to America was the right to vote at all and then the relatively rapid rate at which the right to vote was expanded to these groups.
- Explain that originally, voting was a privilege of citizenship and not a right. It was also a serious duty. It was meant to be carried out by people who had significant interest in protecting America, who actively informed themselves on the issues independent of what they were simply told, and who would be called to give their lives up for their country if it were threatened. Put another way, they had a high personal stake in what the country did regarding various policies, including going to war.
- In general, canvass with students various government actions related to voter participation, such as the 15th, 19th, and 26th Amendments, Jim Crow, poll taxes, and absentee, early, and mail-in voting. Students should consider how each of these changes affects voting and the practice of representative self-government.
- Read with students Elizabeth Cady Stanton's 1848 Seneca Falls "Declaration of Sentiments and Resolutions." Note Stanton's appeal to the principles of the Declaration to argue for women's suffrage.
- Trace with students the history of Native Americans and U.S. citizenship. Consider the numerous instances in which Native Americans were denied their rights and the great gains they have witnessed in having those rights secured through American history, including the various laws to make Native Americans citizens and the ways in which Native Americans retain their own status as nations.
- Consider with students the power of public opinion and its foundations in a moral outlook and education. Students should understand how public opinion is formed and influenced and how, in turn, it influences the opinions of individual citizens. Public opinion is something that dominates in a democratic society because everyone is equally powerful in a democratic republic through their votes. People tend, therefore, to consider the majority opinion to be correct, meaning that many political fights occur in the court of public opinion more than in the legislative process. The side that can command public opinion can shape the nation politically. Students should recognize the famous importance that Abraham Lincoln placed on public opinion in moving northerners not only to vote but also fight and even to die to preserve a union without slavery.
- Make special note of how generations of educational practices, particularly at the collegiate level, as well as the emergence of powerful new forces such as activist organizations, corporate marketing, and social media have greatly influenced public opinion over the past several decades.

- Share with students the variety of ways in which citizens can and in many cases should participate in the civic life of the country and their local community. At the very least, citizens have a responsibility to respect the rights of others, conduct their own personal lives with virtue, and take minimal steps to be informed on issues and on their representatives by seeking out the truth and thinking for themselves.
- Help students see the robust tradition of local civic participation America used to have and the great decline in civic participation in the United States, partly owing to the centralization of politics and lawmaking at the national level, the power of interest groups, activist groups, and bureaucracy in lawmaking, and the various new kinds of entertainment and technology that occupy citizens' time and attention.

STRENGTHENING UNDERSTANDING: POST-LESSON ASSIGNMENTS

Assignment: Explain the responsibilities and ways in which ordinary American citizens may participate in the American experiment of self-government, why such participation has been historically significant, and why civic participation has declined in recent years (2-3 paragraphs).

Name _____

Date _____

UNIT 8**Late 20th Century
Government and Politics**

45-50-minute classes | 15-19 classes

UNIT PREVIEW

Structure

LESSON 1	The Civil Rights Movement	4-5 classes	p. 7
LESSON 2	New Progressive Movements	3-4 classes	p. 10
LESSON 3	Major Supreme Court Decisions	4-5 classes	p. 16
LESSON 4	Recent Debates about Equality	2-3 classes	p. 21
APPENDIX A	Study Guide, Test, and Writing Assignment		p. 27
APPENDIX B	Primary Sources		p. 39

Why Teach Late 20th Century Government and Politics

The civil rights movement was a fulfillment of America's founding principles of equality before the law based on the inherent equal dignity and natural rights of all people. While it remained to the consciences of individual Americans to decide how they would view their fellow man going forward, in the eyes of the law people's rights would be protected equally. Even as the civil rights movement secured such rights, new Progressive movements emerged with new ends for government and politics. At the same time the Supreme Court adopted a different judicial approach to cases before it. Following from such movements, cultural

changes, and judicial decisions, new debates have arisen concerning the meaning and status of equality in America. Students who are approaching the full responsibilities of adult citizens should be familiar with these late twentieth century changes and such debates surrounding equality, for the claim that “all men are created equal” is the central principle by which the United States exists.

What Teachers Should Consider

From *The 1776 Report*, Pages 41-43

The civil rights movement culminated in the 1960s with the passage of three major legislative reforms affecting segregation, voting, and housing rights. It presented itself, and was understood by the American people, as consistent with the principles of the founding. “When the architects of our republic wrote the magnificent words of the Constitution and the Declaration of Independence, they were signing a promissory note to which every American was to fall heir,” Martin Luther King Jr. said in his “I Have a Dream” speech. “This note was a promise that all men, yes, black men as well as white men, would be guaranteed the unalienable rights to life, liberty, and the pursuit of happiness.”

It seemed, finally, that America’s nearly two-century effort to realize fully the principles of the Declaration had reached a culmination. But the heady spirit of the original civil rights movement, whose leaders forcefully quoted the Declaration of Independence, the Constitution, and the rhetoric of the Founders and of Lincoln, proved to be short-lived.

The civil rights movement was almost immediately turned to programs that ran counter to the lofty ideals of the Founders. The ideas that drove this change had been growing in America for decades, and they distorted many areas of policy in the half century that followed. Among the distortions was the abandonment of nondiscrimination and equal opportunity in favor of “group rights” not unlike those advanced by Calhoun and his followers. The justification for reversing the promise of color-blind civil rights was that past discrimination requires present effort, or affirmative action in the form of preferential treatment, to overcome long-accrued inequalities. Those forms of preferential treatment built up in our system over time, first in administrative rulings, then in executive orders, and later in congressionally passed law; finally they were sanctified by the Supreme Court.

Today, far from a regime of equal natural rights for equal citizens, enforced by the equal application of law, we have moved toward a system of explicit group privilege that, in the name of “social justice,” demands equal results and explicitly sorts citizens into “protected classes” based on race and other demographic categories.

Eventually this regime of formal inequality would come to be known as “identity politics.” The stepchild of earlier rejections of the founding, identity politics values people by characteristics like race, sex, and sexual orientation and holds that new times demand new rights to replace the old. This is the opposite of King’s hope that his children would “live in a nation where they will not be judged by the color of their skin but by the content of their character,” and denies that all are endowed with the unalienable rights to life, liberty, and the pursuit of happiness.

Identity politics makes it less likely that racial reconciliation and healing can be attained by pursuing the dream for America of Martin Luther King Jr. and upholding the highest ideals of our Constitution and our Declaration of Independence.

How Teachers Can Learn More

TEXTS

<i>The 1776 Report</i> , The President’s Advisory 1776 Commission	Pages 40–43, 76–86
<i>The U.S. Constitution: A Reader</i> , ed. Hillsdale College Politics Faculty	Chapter 11
“A Letter to the New Left,” C. Wright Mills	
<i>Taking Rights Seriously</i> , Ronald Dworkin	
<i>American Government and Politics</i> , Joseph Bessette and John Pitney	Chapters 5, 6, 15

ONLINE COURSES | [Online.Hillsdale.edu](https://online.hillsdale.edu)

Constitution 101
Constitution 201
Civil Rights in American History
The U.S. Supreme Court

Primary Sources Studied in This Unit

Plessy v. Ferguson
Brown v. Board of Education
 “I Have a Dream,” Martin Luther King Jr.
 “Letter from Birmingham Jail,” Martin Luther King Jr.
 Port Huron Statement, Students for a Democratic Society
 “Repressive Tolerance,” Herbert Marcuse
A Theory of Justice, John Rawls
Roe v. Wade
Planned Parenthood of Southeastern Pennsylvania v. Casey, “Mystery of Life” passage
Griswold v. Connecticut
Abrams v. United States, Dissent by Justice Holmes
Gitlow v. New York, Dissent by Justice Holmes
United States v. Carolene Products Company, Footnote 4
Brandenburg v. Ohio
Everson v. Board of Education
Engel v. Vitale
Cohen v. California
Buckley v. Valeo
District of Columbia v. Heller
 Commencement address at Howard University, Lyndon Johnson
Regents of the University of California v. Bakke

Lesson 1 — The Civil Rights Movement

4-5 classes

LESSON OBJECTIVE

Students learn about the civil rights movement as well as the ideas of those who supported but detracted from the movement as championed by Martin Luther King Jr.

ONLINE COURSES FOR TEACHERS | [Online.Hillsdale.edu](https://www.hillsdale.edu)

Civil Rights in American History
The U.S. Supreme Court

Lectures 7 and 8
 Lecture 8

PRIMARY SOURCES

Students are to read or, if they have previously read, review the following primary sources. While reading, students should annotate these sources. For particularly challenging texts or if the class is offered earlier in high school, the teacher may wish to provide students with guided reading questions to assist with comprehension, clarity, and direction. Using their annotations and any guided reading questions, students should come to class prepared to participate in a seminar conversation on each text.

Plessy v. Ferguson

Brown v. Board of Education

“I Have a Dream,” Martin Luther King Jr.

“Letter from Birmingham Jail,” Martin Luther King Jr.

TERMS AND TOPICS

discrimination

segregation

“separate but equal”

civil rights

civil rights movement

“promissory note”

color-blind

Civil Rights Act of 1964

QUESTIONS FOR THE AMERICAN MIND

- What was the civil rights movement?
- How did Justice Thurgood Marshall’s opinion in *Brown v. Board of Education* depart from Justice John Marshall Harlan’s dissent in *Plessy v. Ferguson*?
- How did Martin Luther King Jr. justify the civil rights movement with the Declaration of Independence and the principles of the American founding?
- What did King mean by the “promissory note”?
- In what ways and by what means did the civil rights movement seek to change laws?
- In what ways and by what means did the civil rights movement seek to change the private consciences of individuals?
- Against which forms of discrimination did the early civil rights movement work?

- What were the differences between the early and late stages of the civil rights movement?
- How does the issue of public accommodation enter into the blurred area between public and private realms?
- Questions from the U.S. Civics Test:
 - Question 112: What did the civil rights movement do?
 - Question 113: Martin Luther King Jr. Is famous for many things. Name one.

KEYS TO THE LESSON

Students should understand the fundamental link between the civil rights movement as presented by Martin Luther King Jr. and the founding principles of the United States, namely, the equal dignity of each person and his or her possession of natural rights. King saw the civil rights movement as fulfilling the “promissory note” that the American Founders had set forth in the Declaration of Independence, that the Constitution sought to defend, and that Abraham Lincoln and millions of Union soldiers fought to fulfill. The civil rights movement ensured that the law would be applied equally in the protection of each person’s rights, regardless of skin color. But King also called for a conversion in the heart of each American, a conversion to color-blindness that only the individual’s own free will, not government force, could bring about.

Teachers might best plan and teach the Civil Rights Movement with emphasis on the following approaches:

- Explain to students how the Supreme Court argued in *Plessy v. Ferguson* that segregation based on race, so long as circumstances were the same, would be considered “equal.” Students should think about Justice Harlan’s dissent, however, which appealed to the understanding of equality as found in the Declaration in order to condemn the ruling, for the government was still making judgments based on the color of one’s skin instead of treating all equally under the law.
- Help students to understand the significance of *Brown v. Board of Education*. Note in particular that although the court arrived at a judgment that aligns with the founding understanding of equality, its citation of social science instead of the founding principles in order to decide the case did not condemn or prohibit racial discrimination by the government. The opinion of the majority thus left open the possibility for government discrimination in different forms going forward.
- Consider with students the goals and means of the civil rights movement in the terms in which Martin Luther King Jr. set them. The civil rights movement was meant to fulfill the “promissory note” of the Declaration of Independence that founded America on an idea: that since all men are created equal, justice demands that the rule of law be applied equally to all citizens to protect their rights. The original civil rights movement thus carried on the legacy of the Founders, Frederick Douglass, and Abraham Lincoln. King’s two speeches here demonstrate this view, its ties to the natural law, and its appeals to the Christian roots of such a political philosophy.
- Spend time outlining what was meant by equality during the civil rights movement, both politically and philosophically. On the civil or political side, the civil rights movement’s appeal to equality in the Declaration of Independence demanded the equal application of the rule of law and the end to laws that established and enforced segregation. The rights of all citizens should be equally protected instead of protecting the rights of only some and not others based on the color of their skin. Moreover, the law would be equally applied to all citizens. On the philosophical or moral side, King argued for a voluntary transformation in the heart of each American. While the

enactment and enforcement of laws and the protection of rights should be color-blind and should be mandated as such in law, the individual outlook of each American ought to be a voluntary assent to the same principles of color-blindness in their interactions with all fellow citizens. It is important not to conflate the two parts to the civil rights movement to presume that both should or could be enforced by government, as no government can truly or justly change the opinions of individual people, no matter how evil those opinions may be. Although King appealed to the individual conscience and not the force of law to bring about a color-blind society, some who partook in the civil rights movement and subsequent political and moral philosophies would instead seek to use the power of the government to change individual consciences.

- Clarify with students how the civil rights movement largely focused on the government's ability to enforce the rule of law equally while appealing to each person to change his or her own conscience, as opposed to the creation of equity, that is, to the equality of result.
- Ask students to consider the areas in which the civil rights movement did move into the realm of controlling private property and activity, namely in private businesses open to the public and in hiring practices. This area of public accommodation was where the line between private conscience and government coercion began to blur. It is one thing to require that those responsible for passing, enforcing, and judging laws be equal and color-blind in their enforcement, and it is another thing to leave individual private conscience free to not be color-blind within private conversation and dwellings. But what about those private institutions and businesses that nevertheless interact with and hire members of the public? Does a government have the authority to use force so as to enforce color-blind actions in such venues? Does such force violate the right to assembly and to private property? Students should consider how such provisions in the Civil Rights Act and in subsequent laws and court decisions were new uses of government power, because enforcing personal non-discrimination erased the public/private distinction. Indeed, this foray, as well-intentioned and morally correct as it was, of government power into the private associations of individuals and businesses would set the agenda for other movements that would become increasingly hostile to King's view of civil rights.

STRENGTHENING UNDERSTANDING: POST-LESSON ASSIGNMENT

Assignment: Explain the relationship between the civil rights movement as led by Martin Luther King Jr. and the principles of the American founding (3–4 paragraphs).

Lesson 2 — New Progressive Movements

3-4 classes

LESSON OBJECTIVE

Students learn about the new Progressive movements sometimes collectively referred to as the New Left that emerged during the Great Society and in subsequent decades, and their views on rights and the purpose of government.

ONLINE COURSES FOR TEACHERS | [Online.Hillsdale.edu](https://www.online.hillsdale.edu)

Constitution 201

Lecture 8

PRIMARY SOURCES

Students are to read or, if they have previously read, review the following primary sources. While reading, students should annotate these sources. For particularly challenging texts or if the class is offered earlier in high school, the teacher may wish to provide students with guided reading questions to assist with comprehension, clarity, and direction. Using their annotations and any guided reading questions, students should come to class prepared to participate in a seminar conversation on each text.

Port Huron Statement, Students for a Democratic Society
 “Repressive Tolerance,” Herbert Marcuse
A Theory of Justice, John Rawls

TERMS AND TOPICS

personal fulfillment
 culture conflict
 moral judgments
 self-expression
 middle class
 participatory democracy
 social democracy
 socialism

the New Left
 Critical Theory
 identity politics
 protest movements
 feminism
 pacifism
 environmentalism
 political correctness

QUESTIONS FOR THE AMERICAN MIND

- What were the various late 20th century movements that may broadly be considered Progressive?
- What are the chief characteristics of each late 20th century Progressive movement:
 - in academia
 - in moral and political philosophy
 - student activism
 - against traditional cultural norms
 - feminism
 - environmentalism

- In what sense do these movements change the ends of government compared to the Founders and previous Progressives?
- To what extent did these various movements make up what came to be called the New Left?
- What is the connection between personal fulfillment and acceptance in society?
- How are objective moral judgments considered impediments to personal fulfillment and, therefore, violations of rights?
- Which segment of the United States population had traditionally held moral standards and the principles of the American founding?
- To what extent did Marxist thought inform these new Progressive movements?
- What is the relationship between the class conflict of Marxism and the cultural conflict adopted by some of these Progressive movements?
- What government policies did some Progressive movements support in order to bring about cultural change, liberation, and personal fulfillment?
- What are participatory democracy and social democracy?
- In which ways did new Progressive movements adopt socialist economic policies?
- What is the significance of protest movements? How did these manifest themselves in the 1960s?
- What roles did pacifism and environmentalism play in the 1960s and in the decades since?

KEYS TO THE LESSON

The purpose of this lesson is to help students understand the thought of new Progressive movements that emerged in the late 20th century, which held very different conceptions of human society, both in its ends and its means. Many of these movements were informed by “mid-twentieth-century European thinkers who sought the revolutionary overthrow of their political and social systems but were disillusioned by the working class’s lack of interest in inciting revolution. This setback forced revolutionaries to reconsider their strategy.

“One of the most prominent, the Italian Marxist Antonio Gramsci, argued that the focus should not be on economic revolution as much as taking control of the institutions that shape culture. In Gramsci’s language, revolutionaries should focus on countering the ‘Hegemonic Narrative’ of the established culture with a ‘Counter-Narrative,’ creating a counterculture that subverts and seeks to destroy the established culture.

“Gramsci was an important influence on the thinkers of the ‘Frankfurt School’ in Germany, who developed a set of revolutionary ideas called Critical Theory. Herbert Marcuse, one member of the Frankfurt School who immigrated to the United States in the 1940s, became the intellectual godfather of American identity politics. With little hope that the white American worker could be coaxed to revolution, Marcuse focused not on instigating class conflict but on instigating cultural conflicts around racial identity. He saw revolutionary potential in ‘the substratum of the outcasts and outsiders, the exploited and persecuted of other races and other colors.’”

— *The 1776 Report*, Pages 79–80

Teachers might best plan and teach New Progressive Movements with emphasis on the following approaches:

- Review with students from the beginning of the course the philosophical premises on which America was established. Ask students to consider once more the claims to objective truth and objective morality on which the American regime rests. Thinkers in the West since ancient times have seen in nature and in human nature an objective reality that the human mind is capable of recognizing and understanding. The Founders also argued for the existence of an objective good, something toward which all human actions aim and by which human beings act so as to seek happiness. These pillars of knowledge and virtue oriented toward objective truth and objective morality form the philosophical foundation of Western civilization and of America.
- Proceed to reviewing with students the Progressive movement from its philosophical origins through its Early, New Deal, and Great Society phases.
- Introduce the new Progressive movements of the late 20th Century in light of previous Progressive movements. These new movements accepted and expanded the Progressive ideas of the active role that politics and government should play in society, but they generally substituted a new moral philosophy, which in turn meant government was more active in areas of life that it had not been even under previous Progressives. This new moral philosophy departed not only from the Founders but, to an extent, from previous Progressive thought as well.
- Consider with students the new Progressive criticism of two philosophical premises of America: objective truth and objective morality. These new movements generally denied such objectivity and instead claimed that the assertion of objective truth and morality was an oppressive construct of those in power, i.e., that objectivity is used to trick the oppressed and weak into serving the powerful. It may be worth sharing that similar critiques are found in the thought of previous European thinkers Jean-Jacques Rousseau, Georg Hegel, and Karl Marx.
- Ask students to consider a replacement for truth and for right and wrong. The answer generally offered through these new movements was that there is no truth and that there are no absolute standards of right and wrong but only private values, self-definition, and personal fulfillment. The pursuit of happiness was no longer a right, secured by government, to the individual *pursuit* of happiness according to the moral norms and standards of the community, but had become a right to the fulfillment of one's personal conception of happiness and being accepted and affirmed by others and by the community at large. Under such a view, a moral philosophy based on an objective standard of goodness is not only false but is actually discriminatory because it means making judgments about whether oneself or others have aligned their conduct with the pronounced standard of goodness. The result is perceived unequal treatment by others and society, which can lead to limits on expression and violations of personal conscience or religious liberty since expressions of right and wrong can now be considered forms of oppression.
- Explain how many in these new Progressive movements saw the role of government as a mighty force not merely to protect rights but to actually bring about moral ends without the threat of tyranny. The end of government is not to protect fundamental rights and liberties, as in the founding, nor even to lift all people economically, as in early and New Deal Progressivism. Instead, the role of politics, the government, and bureaucracy is to delegitimize objective moral standards of conduct and to reallocate power and freedom away from the privileged group to the underprivileged. This is because personal happiness and fulfillment are found only in acceptance in a group or society, and all inequality is the result of prejudices that an oppressor group imposes by asserting certain objective standards for moral conduct.

- Note with students the objects at which such government action would need to be directed, namely at the traditional supports and products of objective truth and morality in American society: the family, religious belief, and a cultural adherence to the rules and norms of self-government, all of which have historically been embodied in and defended by the American middle class.
- Consider the extent to which such views were informed by the thought of Karl Marx. Instead of focusing on economics and class conflict, these movements generally focused on the other supports (e.g., family, religious belief, culture, principles of self-government) they believed were utilized by the traditional middle class to oppress the less fortunate.
- Consider with students what these views mean for the role and functioning of government. This reallocation of power and the overall critique of traditional institutions was to be led by an expert class. As it so happened, these civil servants and bureaucrats, as with many student activists, were oftentimes from the middle class. But they believed that if they were generally aware of their privilege, they would commit to maintain and use their advantages to lead efforts against these traditional institutions and cultural norms. Some in academia, for instance, viewed themselves as an elite group to advocate for the oppressed.
- Read with students excerpts from the Port Huron Statement and “Repressive Tolerance.” The above-mentioned ideas are captured in each work, and the works outline certain practical ideas for adoption. One such action was to outlaw intolerant thought and speech as oppressive to an individual’s personal fulfillment, which are the first theoretical statements on what would become known as hate speech and political correctness.
- Read with students John Rawls’s *A Theory of Justice*. Highlight with students Rawls’s argument that if everybody pretended-away their advantages and privileges, they would live so as to prioritize the disadvantaged. Note his view that government must help those who do not willingly pretend-away their advantages and privileges by actually taking such advantages away from them. Government then redistributes not merely material resources but also societal and cultural honor and respect, those sources of a human being’s sense of dignity and self. Ask students what this means for the American founding’s principle of human inherent human dignity, as articulated in the words “all men are created equal.” Ask them if Rawls thinks everyone has inherent human dignity as a person or only as a victim. If the latter and not all people are victims, does this mean that not everyone deserves equal human dignity and respect for their rights? To what extent is this compatible with America’s principles?
- Emphasize for students how such views require a new kind of politics. The early Progressives sought to reorganize government for a more active role in achieving traditional moral ends, but the new Progressive movements sought to reorient the entire purpose and means of government. Equality as so construed might require the work of government expertise and political activists to liberate all the people who are oppressed not simply economically but by others’ moral judgments of their chosen and expressed identities.
- Make clear for students how the ideas of liberation and social justice were important in the feminist movement and the sexual revolution. Assertions of new rights to privacy and self-expression against the moral judgments of parents, religious institutions, and established morality coalesced into group identity. Liberation and justice for the social group replaced these traditional

institutions as individuals expressed their own identities and found community with others who did the same.

- Share with students the role of communal acceptance through activism and protest that took hold during the 1960s, whether it was an element of the civil rights movement, in opposition to the Vietnam War, or for environmentalism. On the environmentalism point, clarify that what was unique about this form of environmentalism was the placement of environmental concerns always and absolutely above human concerns and the willingness to use government force to carry out such priorities.

STRENGTHENING UNDERSTANDING: POST-LESSON ASSIGNMENT

Assignment: Explain the moral and political philosophy of the New Left, particularly as it concerns the understanding of rights and the new realms of government activity necessary to fulfill such an understanding (2–3 paragraphs).

Unit 8 — Formative Quiz

Covering Lessons 1-2
10-15 minutes

DIRECTIONS: Answer each question in at least one complete sentence.

1. How did Martin Luther King Jr. justify the civil rights movement with the Declaration of Independence and the principles of the American founding?
2. In what ways and by what means did the civil rights movement seek to change laws?
3. In what sense did new Progressive movements change the ends of government compared to the Founders and the Progressives?
4. How are objective moral judgments supposedly impediments to personal fulfillment and, therefore, violations of rights, according to new Progressive thought?
5. What means did more recent Progressives envision government utilizing in order to attain such ends?

Lesson 3 — Major Supreme Court Decisions

4-5 classes

LESSON OBJECTIVE

Students learn about the major Supreme Court decisions of the late twentieth century and their relationship to civil rights, civil liberties, cultural changes, and the role of the Court itself.

ONLINE COURSES FOR TEACHERS | Online.Hillsdale.edu

Constitution 201
The U.S. Supreme Court

Lectures 7 and 8
Lectures 2, 4, 5, 6, 7, 10

TEXTS

Students are to read or, if they have previously read, review the following primary sources. While reading, students should annotate these sources. For particularly challenging texts or if the class is offered earlier in high school, the teacher may wish to provide students with guided reading questions to assist with comprehension, clarity, and direction. Using their annotations and any guided reading questions, students should come to class prepared to participate in a seminar conversation on each text.

Roe v. Wade
Planned Parenthood of Southeastern Pennsylvania v. Casey, “Mystery of Life” passage
Griswold v. Connecticut
Abrams v. United States, Dissent by Justice Holmes
Gitlow v. New York, Dissent by Justice Holmes
United States v. Carolene Products Company, Footnote 4
Brandenburg v. Ohio
Everson v. Board of Education
Engel v. Vitale
Cohen v. California
Buckley v. Valeo
District of Columbia v. Heller

Students should also read the below texts and come to class prepared to complete a short reading quiz on the contents of the readings. The reading quiz should be based on questions on pages 171–172 of *American Government and Politics*.

American Government and Politics

Chapter 5

TERMS AND TOPICS

originalism
living Constitution
judicial activism

Bill of Rights
14th Amendment
civil rights

Due Process Clause
 incorporation doctrine
 criminal procedure
 rights of criminals and the accused
 feminism
 sexual revolution
 “right to privacy”
 “right to abortion”

obscenity
 Equal Protection Clause
 religious liberty
 free exercise of religion
 Establishment Clause
 freedom of speech
 freedom of the press
 rights to assembly and petition

QUESTIONS FOR THE AMERICAN MIND

- How did the Supreme Court change the focus of the kinds of cases it would consider in the late twentieth century?
- What is the difference between originalism and a living Constitution?
- How has the Supreme Court utilized the incorporation doctrine to use the Bill of Rights and 14th Amendment to change laws in individual states?
- What was the relationship between cultural and moral changes and the Supreme Court’s review, discovery, and incorporation of rights?
- How did family structure and supports change with the culture during the 1960s and 1970s?
- On what basis were rights to privacy and to abortion asserted by the Supreme Court?
- What is feminism?
- What have been the arguments and motivations for the liberalization of immigration policy?
- How has freedom of religion been both curtailed and protected by recent Supreme Court decisions?
- How have freedom of speech and freedom of the press been both curtailed and protected by recent Supreme Court decisions?

KEYS TO THE LESSON

In recent decades, the Supreme Court shifted away from originalist readings of the Constitution and has relied more on a “living Constitution” view. It has sought to meet the questions and challenges of the day with a certain degree of doubt concerning both the permanency of the Founders’ views and the ability to apply them definitively to contemporary issues. Thus has the Court relied more on the views of academic thought, contemporary science, and a general pragmatism in deciding cases, rather than following to the original meaning of the Constitution or its amendments. These novel approaches, moreover, were applied amidst many meaningful cultural changes, being both influenced by and shaping of such changes.

Teachers might best plan and teach Major Supreme Court Decisions with emphasis on the following approaches:

- Set up this lesson by explaining to students the new focus the Supreme Court would have in the second half of the twentieth century as articulated in its fourth footnote in *United States v. Carolene Products Co.* The Supreme Court in this footnote states that having repeatedly upheld the government’s ability to regulate nearly any activity that has an economic effect, the Court would in future years shift away from cases concerning economic activity. Instead, the Court

would become more concerned with civil liberties, the democratic process, and questions of discrimination. Rather than simply judging as disputes arise before it, the Court would now choose cases that tacked toward these issues, one component of what some would criticize as “judicial activism.”

- Explain how the new direction and activism that the Supreme Court would take led to its reevaluating a host of new ideas about rights. The result was that some rights were expanded while others were restricted. Undergirding it all were evolving standards of what is just and what freedom demands. The overall message from the Court was generally that the government cannot judge or base its laws on how people decide to use their freedom. In fact, the Court would utilize the 14th Amendment to discover more and greater freedoms, some of which challenged the moral philosophy of the founding generation.
- Spend some time with students to consider the changes that the Supreme Court wrought in criminal law. In particular, focus on the incorporation of civil liberties related to criminals by applying the due process clause of the 14th Amendment to expand the rights protected in the 4th, 5th, 6th, and 8th amendments. This would include the exclusionary rule, Miranda rights, and the right to an attorney at the taxpayers’ expense. While many rulings make logical sense, their combination, alongside the shift in cultural focus away from protecting the innocent toward rehabilitating the criminal, resulted in more lenient sentencing and arguably led to higher crime rates during the 1970s and ’80s. This challenged the founding view that while rehabilitation is necessary, it must not come at the expense of protecting the innocent.
- Consider with students the Supreme Court’s assertion of a new right to privacy. In and of itself, the Constitution, by implication, also guarantees a right to privacy. The shift that the Supreme Court made through *Griswold v. Connecticut*, *Roe v. Wade*, and *Planned Parenthood v. Casey* was that the government did not have power to prevent private activities that might harm others (or society in general) simply by claiming that such activities were untethered from nature. In these instances, preventing or aborting the natural result of a natural biological act—one that normally promotes family life and the procreation of future citizens—was deemed to be legal. The Court indicated that the public interest for family life and the country’s population do not constitute a government interest or power to limit practices that inhibit them (e.g., abortion), as such limits on what were judged to be private practices infringed on the individual’s personal fulfillment.
- Read with students aloud in class and discuss the paradigmatic statement on not only new understandings of liberty, truth, and justice but also how the Supreme Court ushered in such moral and political shifts: Justice Kennedy’s “Mystery of Life” passage from *Planned Parenthood v. Casey*. Students should consider whether this acknowledged relativism toward truth is compatible with the American founding. That is, does *liberty* so construed become separated from the nature of things, from truth, and from the prerequisites for a free and just society that respects the inherent human dignity of each person? To what extent is this conception of liberty compatible with reason, logic, justice, and equality, and with the experience of our daily lives?
- Track with students the changes in the right to freedom of speech. Although there was some question regarding the protection of revolutionary speech in the founding generation, the understanding that political speech and written arguments were permissible was widely held. Indeed, America’s history catalogs the remarkable and continuous protection of the freedom of

speech as a fundamental component to a free society. The greatest shift in freedom of speech again came in the 1960s and onward as the Supreme Court in *Cohen v. California* established a new right in freedom of expression. Expression was again separate from a moral foundation as the Court instead accepted expressive speech as another form of the new focus on personal self-fulfillment in the eyes of society. The liberalization of laws curbing obscenity in public and the publication of obscene materials were the immediate conduits for this change. The court soon abandoned doing more with such cases, but the potential for turning freedom of expression towards curbing one's freedom of speech if certain language judged or criticized one's freedom of expression has always been a possibility. In recent years, some have sought to employ the freedom of expression against freedom of speech through political correctness and laws prohibiting whatever is perceived to be "hate speech."

- Help students to see the changes in the freedom of religion in the last several decades. The 1st Amendment's free exercise clause and establishment clause capture the Founders' consensus on religious freedom. It was necessary that individuals be permitted to express their religion so long as it did not infringe on the rights of another. And it was necessary that there not be an official church of the United States at the national level. The question of official churches at the state level varied from the actual existence of such official churches to those who argued against them. But what is equally important is the emphasis the Founders placed on a people practicing religion for free self-government, as evident in their speeches and writings. Review with students the Founders' various statements on this point from Unit 1. They held the general position that government should express a mild support and encouragement of religion, so long as all were free to practice their own religion. Beginning in the New Deal and accelerating in the 1960s, the Supreme Court began to dismantle government support for religion. The shift first came in requiring schools to become more secular, which tracked with the general secularization of the country and culture. Government could not support, even indirectly, the promotion of religious belief that held to certain moral judgments about others, especially the perceived oppressed groups. The establishment clause has been strictly applied, even to the point of curtailing the free exercise clause. In recent years, direct efforts to restrict the free exercise of religion when that religion prohibits, for its asserted moral reasons, its members or organizations from engaging in certain practices have become more common.
- While certain recent cases concerning marriage, sex, and the family that have expanded the Court's understanding of rights have not yet determined their effect on the religious liberty of institutions and individuals, clarify with students that the underlying message in most of these cases is that the decisions on these issues are being removed from state legislatures and localities and concentrated in the federal courts.
- Consider with students attempts to limit the right to bear arms but also the Supreme Court's general reluctance to hear cases that infringe on this right. The essential natural law purposes of the right to bear arms was both for personal self-defense and for guarding against and preventing tyranny. Some argue that the latter purpose has operated as a deterrence that has slowed attempts to limit other rights in recent decades while others argue for greater limits on this right.
- Consider with students whether the inconsistency in these shifts concerning rights is problematic. For instance, one may argue that relativistic views and actions assert as much of a moral claim as

views and actions rooted in traditional religion or objective reality and nature, but the former have generally been advanced at the expense of the latter. When views on liberty that are relativistic thus collide with understandings of liberty rooted in a claim to objective truth, students should consider how the issue can logically be resolved, and whether it has been resolved thus. In the United States, in light of both its unprecedented achievements for human life and the first principles on which it was founded, should the people forgo America's principles and replace them with moral relativism? Why or why not? What would be the consequences? Has this been tried before in other times or countries?

- In addition to the cases highlighted above, students may also benefit from summary explanations of the following cases: *Gideon v. Wainwright*; *Miranda v. Arizona*; *in re Gault*; *Tinker v. Des Moines*; *Hazelwood v. Kuhlmeier*; *United States v. Nixon*; *Bush v. Gore*; *Texas v. Johnson*; *Mapp v. Ohio*; *Obergefell v. Hodges*.

STRENGTHENING UNDERSTANDING: POST-LESSON ASSIGNMENT

Assignment: Explain the major Supreme Court rulings of the late twentieth century pertaining to criminal rights, privacy, speech, and religion (2–3 paragraphs).

Lesson 4 — Recent Debates about Equality

2-3 classes

LESSON OBJECTIVE

Students learn about recent debates concerning the status of equality in American government and politics, namely the positions taken by the Founders, abolitionists, the leaders of the Civil Rights Movement, affirmative action, social justice, identity politics, and what has been called “anti-racism.”

ONLINE COURSES FOR TEACHERS | [Online.Hillsdale.edu](https://www.online.hillsdale.edu)

<i>Civil Rights in American History</i>	Lectures 7, 8, 9
<i>The U.S. Supreme Court</i>	Lecture 8
<i>Constitution 201</i>	Lecture 8

PRIMARY SOURCES

Students are to read or, if they have previously read, review the following primary source(s). While reading, students should annotate these sources. For particularly challenging texts or if the class is offered earlier in high school, the teacher may wish to provide students with guided reading questions to assist with comprehension, clarity, and direction. Using their annotations and any guided reading questions, students should come to class prepared to participate in a seminar conversation on each text.

Commencement address at Howard University, Lyndon Johnson
Regents of the University of California v. Bakke

TERMS AND TOPICS

equality of result	critical race theory
equity	social justice
affirmative action	liberation
political correctness	nuclear family
hate speech	identity politics
relativism	“anti-racism”
social justice	

QUESTIONS FOR THE AMERICAN MIND

- How has Supreme Court jurisprudence changed since Justice John Marshall Harlan’s dissent in *Plessy v. Ferguson*?
- What is the concept of political correctness?
- What is hate speech? How is it defined? Who defines it?
- Do political correctness and attempts to define and outlaw hate speech conflict with the natural right to freedom of speech? Why or why not?
- What is meant by “social justice”? How does it depart from the views of the Founders?

- What is the difference between equality of opportunity and equality of result(s) (or equity)? Which one did the Founders intend?
- What is affirmative action?
- How does affirmative action and equity differ from “all men are created equal”?
- What is critical race theory? How does it reject the principles of the American founding? To what extent is it compatible with the civil rights movement?
- How does government making policies based on claims of identity politics or picking and choosing which racial or ethnic groups to favor over others contradict the principles of the founding?
- What is identity politics? What are its origins and aims?
- What is the role of government action in identity politics and “anti-racism”? What does this mean for the relationship between government power and individual Americans?
- What risks to freedom and equality are inherent in critical race theory?
- How are critical race theory and “anti-racism” discriminatory?

KEYS TO THE LESSON

“Prior to the 1960s, movements in American history that sought to end racial and sexual discrimination, such as abolition, women’s suffrage, or the civil rights movement, did so on the ground set by the Declaration of Independence.

“In leading the civil rights movement, Martin Luther King Jr. was aware that other, more revolutionary groups wanted to fight in terms of group identities. In his ‘I Have a Dream’ speech, King rejected hateful stereotyping based on a racialized group identity. The ‘marvelous new militancy which has engulfed the Negro community must not lead us to distrust all white people,’ he warned. King refused to define Americans in terms of permanent racialized identities and called on Americans ‘to lift our nation from the quicksands of racial injustice to the solid rock of brotherhood’ and see ourselves as one nation united by a common political creed and commitment to Christian love.

“‘When the architects of our republic wrote the magnificent words of the Constitution and the Declaration of Independence, they were signing a promissory note to which every American was to fall heir,’ King wrote. ‘This note was a promise that all men, yes, black men as well as white men, would be guaranteed the unalienable rights to life, liberty, and the pursuit of happiness.’

“As the 1960s advanced, however, many rejected King’s formulation of civil rights and reframed debates about equality in terms of racial and sexual identities. The civil rights movement came to abandon the nondiscrimination and equal opportunity of color-blind civil rights in favor of ‘group rights’ and preferential treatment. A radical women’s liberation movement reimagined America as a patriarchal system, asserting that every woman is a victim of oppression by men. The Black Power and black nationalist movements reimagined America as a white supremacist regime. Meanwhile, other activists constructed artificial groupings to further divide Americans by race, creating new categories like ‘Asian American’ and ‘Hispanic’ to teach Americans to think of themselves in terms of group identities and to rouse various groups into politically cohesive bodies.

“Identity politics divides Americans by placing them perpetually in conflict with each other. This extreme ideology assaults and undermines the American principle of equality in several key ways.

“First, identity politics attacks American self-government. Through the separation of powers and the system of checks and balances, American constitutionalism prevents any one group from having complete control of the government. In order to form a majority, the various groups that comprise the nation must resolve their disagreements in light of shared principles and come to a deliberative consensus over how best to govern. In the American system, public policy is decided by prudential compromise among different interest groups for the sake of the common good.

“Identity politics, on the other hand, sees politics as the realm of permanent conflict and struggle among racial, gender, and other groups, and no compromise between different groups is possible. Rational deliberation and compromise only preserve the oppressive status quo. Instead, identity politics relies on humiliation, intimidation, and coercion. American self-government, where all citizens are equal before the law, is supplanted by a system where certain people use their group identity to get what they want.

“Second, by dividing Americans into oppressed and oppressor groups, activists of identity politics propose to punish some citizens—many times for wrongs their ancestors allegedly committed—while rewarding others. Members of oppressed groups must ascend, and members of oppressor groups must descend. This new system denies that human beings are endowed with the same rights, and creates new hierarchies with destructive assumptions and practices.

“On the one hand, members of oppressed groups are told to abandon their shared civic identity as Americans and think of themselves in terms of their sexual or racial status. The consequence is that they should no longer see themselves as agents responsible for their own actions but as victims controlled by impersonal forces. In a word, they must reject, not affirm, the Declaration’s understanding of self-government according to the consent of the governed. If members of oppressed groups want to become free, they must rely upon a regime of rewards and privileges assigned according to group identity.

“On the other hand, members of oppressor groups merit public humiliation at the hands of others. Diversity training programs, for example, force members of ‘oppressor’ groups to confess before their coworkers how they contribute to racism. Educational programs based on identity politics often use a person’s race to degrade or ostracize them.

“These degradations of individuals on the basis of race expose the lie that identity politics promotes the equal protection of rights. Advocates of identity politics argue that all hate speech should be banned but then define hate speech as only applying to protected identity groups who are in turn free to say whatever they want about their purported oppressors. This leads to a ‘cancel culture’ that punishes those who violate the terms of identity politics.

“Third, identity politics denies the fundamental moral tenet of the Declaration, that human beings are equal by nature. This founding principle provides a permanent and immutable standard for remedying wrongs done to Americans on the basis of race, sex, or any group identity.

“Repudiating this universal tenet, activists pushing identity politics rely instead on cultural and historical generalizations about which groups have stronger moral claims than others. They claim this approach offers a superior and more historically sensitive moral standard. But unlike the standard based on a common humanity—what Lincoln called ‘an abstract truth, applicable to all men and all times’—their historical

standard is not permanent. Rather, it adjusts to meet the political fashions of a particular moment. By this standard, ethnicities that were once considered ‘oppressed’ can in short order turn into ‘oppressors,’ and a standard that can turn a minority from victim to villain within the course of a few years is no standard at all.

“Fourth, identity-politics activists often are radicals whose political program is fundamentally incompatible not only with the principles of the Declaration of Independence but also the rule of law embodied by the United States Constitution. Antagonism to the creed expressed in the Declaration seems not an option but a necessary part of their strategy. When activists are discussing seemingly innocuous campaigns to promote ‘diversity,’ they are often aiming for fundamental structural change.”

— *The 1776 Report*, Pages 81–85

Teachers might best plan and teach Recent Debates about Equality with emphasis on the following approaches:

- Help students understand affirmative action as actions (especially in law and government policy) that treat some groups in a more beneficial way than it does others in order to address real or perceived unequal group outcomes. Ask students the extent to which government policies of affirmative action are compatible with the principles on which America was founded, namely that all persons are equal by nature in their possession of natural rights and that a just government will *equally protect* the rights of all its citizens and judge and treat them equally before the law. Students should see that inherited disparities based on past injustices that many face are by no means illegitimate concerns and struggles. Attempts to address these injustices may in fact be well intended, and individuals, groups, or organizations in their personal or private capacities should work to correct those injustices, especially concerning those unable to defend themselves. But to assemble the powers of the government to correct the consequences of injustice with more injustice—by treating one innocent group differently by law in order to benefit another innocent group whose ancestors were wronged in the past—is antithetical to the moral philosophy on which the country was established. The protection of equal rights and equality before the law, combined with personal moral volition and a healthy civil society, will not undo the consequences of past injustices but will allow and encourage all to pursue opportunity and thrive as equal members of a common community.
- Consider with students the nature of inequality and the various dimensions and ways in which inequality exists. Nevertheless, it is important to consider that absolute equality in all things is not possible in reality. Failing to recognize this fact leads to a constant cycle of conflict in which government, rather than focusing on securing and protecting equal rights under the rule of law, takes action against one supposed oppressor group to advantage a supposed victim group before turning to the next group and then the next in the constant attempt to force equal outcomes on society. .
- Consider the modern descendant of critical theory, namely critical race theory, or the theory that race is central to how to understand man and politics. Critical race theory is not merely an insistence on recognizing the injustice of slavery or Jim Crow laws and their negative effects in

history, which are necessary to an honest account of history. Rather, beyond this, critical race theory teaches that race is at the very center of everything in modern social life and that the United States was founded on and remains the incarnation of racism. It argues that America's very nature is defined by racism (hence it is "systemically" racist) and that it exists—in its people, founding, laws, culture, history, the free market, and institutions—to perpetuate racism. Indeed, some people—in particular, those of European descent—are inherently racist against those of other races and ethnic heritages. In brief, critical race theory and its various manifestations is diametrically opposed to the principles of equality on which America was founded. By so rejecting America's founding principles, critical race theory and its adherents reject the principles of equality and human dignity that have led to the most free, prosperous, and secure country in the history of civilization.

- Consider with students the argument that so long as those who are privileged acknowledge their privilege, they can and perhaps even ought to maintain their privileged lifestyle in order to use their advantages and become experts on how to remove these same privileges from those who refuse to acknowledge them. This results in a kind of partnership between businesses, elected officials, and bureaucrats with the supposed victim group.
- Lastly, consider the ideas and proposals of what has been labeled "anti-racism," namely that every form of inequality is by definition due to racial discrimination—not natural differences of talent and effort, or personal volition, or community environment—and that it is the job of government to use its power and authority to remove such sources of inequality. Students should consider how the problems with this understanding of inequality, whether real or perceived, amounts to a call to use government coercion to reshape society, which is destructive of liberty and often violates the rights of conscience.

STRENGTHENING UNDERSTANDING: POST-LESSON ASSIGNMENT

Assignment: Explain how affirmative action, identity politics, political correctness, and "anti-racism" differ from the principles of the American founding (2–3 paragraphs).