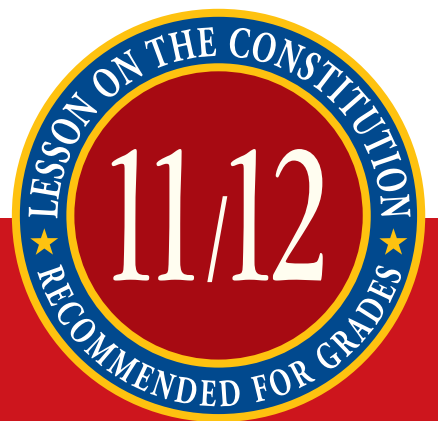


We the People

# Constitution Day

ACROSS THE COUNTRY \*\*\*\*\* SEPTEMBER 17



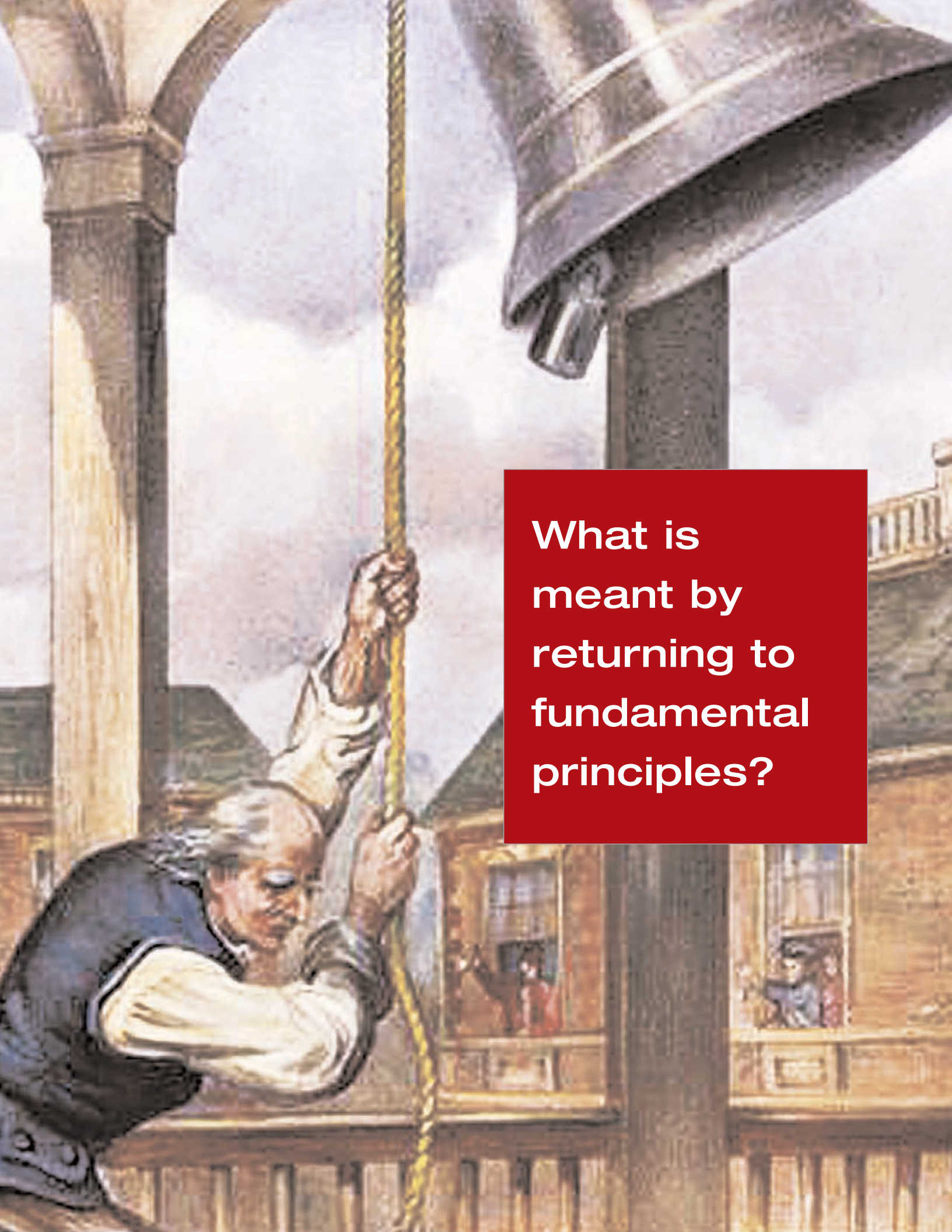
## About Constitution Day



In 1952, President Harry S. Truman signed a bill that moved “I Am an American Day” from the third Sunday in May to September 17 so that this holiday would coincide with the signing of the U.S. Constitution in 1787. Congress renamed the holiday “Citizenship Day.” A joint resolution passed in 1956 requested the President to proclaim the week beginning September 17 and ending September 23 each year as “Constitution Week.”

Senator Robert C. Byrd (D-WV) entered an amendment to the Consolidated Appropriations Act of 2005 that changed the name of the September 17 holiday to “Constitution Day and Citizenship Day.” The purpose of “Constitution Day and Citizenship Day” is to honor and celebrate the privileges and responsibilities of U.S. citizenship for both native-born and naturalized citizens, while commemorating the creation and signing of the supreme law of our land.

The addition of the amendment, known as Public Law 108-477, requires all schools that receive federal funds hold an educational program for their students on September 17 of each year. This lesson, which is adapted from curricular materials on the Constitution produced by the [Center for Civic Education](#), is designed to assist schools and federal agencies to meet the requirements of this law.



**What is  
meant by  
returning to  
fundamental  
principles?**



# What is meant by returning to fundamental principles?

Founder George Mason said, “No free government or the blessings of liberty can be preserved to any people, but by frequent recurrence to fundamental principles.” In this lesson, you have the opportunity of relating some fundamental principles and ideas of our government to contemporary issues.

The Critical Thinking Exercises present a series of quotations representing many great ideas and principles that have shaped our constitutional heritage. Some of these ideas contradict each other. American constitutional history has witnessed many conflicts between competing principles of equal merit, for example, the conflict between majority

rule and minority rights, between sovereign power and fundamental rights, liberty and order, unity and diversity.

You encounter some of these conflicts in the exercises. In each case you are asked to apply the principles and ideas suggested in the quotations to a contemporary issue, to work through the issue on your own or in small groups, and to reach your own conclusions. In so doing, you use the skills of citizenship—observation, analysis, and value judgments to reach an opinion, to express that opinion and to be prepared to defend it. The exercises provide practice for the responsibilities you will encounter in the years ahead.





*The invasion of Prague in the spring of 1968 by the Soviet Union. Do you have an obligation as a citizen and human being to exercise your moral authority when injustice occurs?*

## Why are fundamental principles important?

The individuals who founded our government cherished and respected ideas. They were excited about them. Ours is a nation that was created by ideas. It is not the product of a common culture or geography or centuries of tradition. The United States began as an experiment to see if certain ideas about government—never before tried on such a scale and in such a way—would work.

The English economist, John Maynard Keynes, once remarked that “in the long run it is ideas and not men who rule the world.” If the upheavals of this century

have taught us anything, it is that ideas have consequences, sometimes for good, sometimes for evil. We like to believe that in the end, good ideas will prevail over bad. Whatever the case, ideas do matter.

The Soviet dictator, Joseph Stalin, once disparaged the influence of religion by asking, “How many divisions does the Pope have?” It is one of the great ironies of this century that the fall of Stalin’s Communist empire began in Poland, in a revolution inspired in large part by the religious faith of the Polish people and supported throughout by the moral influence of the papacy. “An invasion of armies can be resisted,” said the French novelist Victor Hugo, “but not an idea whose time has come.”



## What did the Founders mean by returning to first principles?

When George Mason spoke of the importance of a frequent recurrence to fundamental principles, he was invoking an old idea associated with republican government. The ancient Greeks and Romans believed that a government established with the purpose of serving the public good and involving the participation of all citizens could not survive unless each generation was reminded of that government's reason for being and the principles by which it operated.

“If a nation means its systems, religious or political, shall have duration,” said another of the Founders, “it ought to recognize the leading principles of them in the front page of every family book. What is the usefulness of a truth in theory, unless it exists constantly in the minds of the people and has their assent?”

It is doubtful that these Founders had in mind an uncritical acceptance of the “Wisdom of the past.” In revisiting these principles, each generation must examine and evaluate them anew. Indeed, it is probable that the Founders would be somewhat surprised at the reverence in which they and their writings have been held by subsequent generations of Americans.

The Founders, themselves, were vigorous critics of the wisdom they inherited and the principles in which they believed. They



were articulate, opinionated individuals who loved to examine ideas, to analyze, argue, and debate them. They expected no less of future generations. They would expect no less of you. To go back in thought or discussion to first principles requires us to make principled arguments and ground our opinions in ideas of enduring value. It is what citizenship in a free society is all about.

## 1. Liberty v. Order

One of the most enduring and important challenges in our constitutional system of government is how to balance order with liberty. Today, this challenge is focused on the issue of crime. Violent crime is widespread in the nation's inner cities, but few areas of our society feel safe. Violence even has become a problem for our schools.

Recently, in response to the crime problem in a housing project in one of the nation's largest cities, officials in that city proposed large-scale police "sweeps" of apartments to search for illegal weapons. These searches would not use a search warrant or provide evidence of probable cause. After a judge struck down the proposal as an unconstitutional violation of the Fourth Amendment, the city then proposed a new policy: requiring prospective tenants in public housing projects to waive their Fourth Amendment rights as a condition of their leases.

Critics of this proposal doubt its constitutionality and worry about the consequences of a policy that would require a citizen to give up any of the liberties protected by the Bill of Rights. Those supporting the proposal point to the dangerous conditions that these tenants must live in. What's the point of worrying about procedural rights in a world that has, in effect, become a lawless state? Government's first obligation, they say, is to provide the security of an orderly society.

What is your position on this issue? Justify it in terms of the situation itself and in terms of constitutional principles.

1. How do the following statements apply to this situation? What principles and ideals are implied in each statement? How, if at all, do these principles conflict with each other?

a. *The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause . . . .*

Fourth Amendment

b. *The good of the people is the highest law.*

Cicero

c. *Authority without wisdom is like a heavy axe without an edge, fitter to bruise than polish.*

Anne Bradstreet

d. *For a man's house is his castle.*

Edward Coke

e. *They that can give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety.*

Benjamin Franklin

f. *Since the general civilization of mankind, I believe there are more instances of the abridgment of the freedom of the people by gradual and silent encroachments of those in power, than by violent and sudden usurpation.*

James Madison

g. *Every successful revolution puts on in time the robe of the tyrant it has deposed.*

Barbara Tuchman

h. *Liberty, too, must be limited in order to be possessed.*

Edmund Burke

- i. *The great and chief end, therefore, of men's uniting into Commonwealths, and putting themselves under Government, is the preservation of property [i.e., life, liberty and estate].*

John Locke

2. Which, if any, of these statements do you find most persuasive? Why?
3. What is your position on this issue? Explain the reasons for your position in terms of the situation itself and in terms of the principles involved.

## 2. Rights of the Accused

Americans are worried about the use and sale of illegal drugs. A recent poll indicated that a substantial percentage of American citizens would be willing to give up some protections of the Bill of Rights in order to control illegal drug use.

Several years ago Congress passed a law authorizing federal authorities to confiscate the property of individuals suspected of trafficking in drugs. Such property could be seized on mere suspicion. Individuals whose property had been seized could appeal and seek a return of their property, but the burden of proof rested on them to prove their innocence.

Advocates of this law argued its constitutionality on the grounds that the government was not acting against the suspected individuals, only against their property. Since only individuals, and not property, enjoy the protection of the Bill of Rights, they said, the law did not violate the Constitution.

Since going into effect the law has proved controversial. Congress may repeal it. Do you think it should be repealed? Even if the constitutionality of such a law is upheld, should the government have such power? How would you determine the circumstances in which protections guaranteed by the Constitution should be curtailed by the government?

1. How do the following statements apply to this situation? What principles and ideals are implied in each statement? How, if at all, do these principles conflict with each other?

- a. *No person shall be . . . deprived of life, liberty, or property, without due process of law . . . .*

Fifth Amendment

- b. *It is better that ten guilty persons escape than one innocent person suffer.*

William Blackstone

- c. *Man's capacity for justice makes democracy possible, but man's inclination to injustice makes democracy necessary.*

Reinhold Niebuhr

- d. *The mood and temper of the public in the treatment of crime and criminals is one of the most unfailing tests of civilization of any country.*

Winston Churchill

2. Which, if any, of these statements do you find most persuasive? Why?
3. What is your position on this issue? Explain the reasons for your position in terms of the situation itself and in terms of the principles involved.



### 3. Unity v. Diversity

Is a common language essential to the survival of American democracy? One of the most controversial aspects of diversity in America has to do with language. Throughout our history English has been the principal language of the country. For millions of immigrants, learning English was an important first step to becoming a U.S. citizen.

Schools must teach immigrant children who speak languages other than English. Educators differ about how best to accomplish their tasks. Moreover, a large percentage of recent immigrants use Spanish as their first language. In certain areas of the country Spanish is as commonly spoken as English. We are becoming, many believe, a bilingual nation.

1. How do the following statements apply to this situation? What principles and ideals are implied in each statement? How, if at all, do these principles conflict with each other?
  - a. *America is God's crucible, the great melting pot where all the races of Europe are melting and re-forming!*  
Israel Zangwell
  - b. *Immigrants are not refuse; rather, they are the sinew and bone of all nations . . . . Education is the essence of American opportunity, the treasure that no thief could touch, not even misfortune or poverty.*  
Mary Antin
  - c. *Our political harmony is therefore concerned in a uniformity of language.*  
Noah Webster

d. *We have room for but one language here, and that is the English language, and we intend to see that the crucible turns our people out as Americans, and not as dwellers of a polyglot boardinghouse.*

Theodore Roosevelt

e. *In world history, those who have helped to build the same culture are not necessarily of one race, and those of the same race have not all participated in one culture.*

Ruth Fulton Benedict

f. *We have become not a melting pot but a beautiful mosaic. Different people, different beliefs, different yearnings, different hopes, different dreams.*

Jimmy Carter

g. *America is not a melting pot. It is a sizzling cauldron.*

Barbara Mikulski

i. *Unless you speak English and read well, you'll never become a first-class citizen . . . but when you say 'official,' that becomes a racial slur.*

Barbara Bush

j. *The individual . . . does not exist for the State, nor for that abstraction called 'society,' or the 'nation,' which is only a collection of individuals.*

Emma Goldman

2. Which, if any, of these statements do you find most persuasive? Why?
3. Is a common language necessary to American citizenship? Explain your position in terms of the principles involved.

## 4. Individual Rights v. the Sovereignty of the People

References to “human rights,” “political rights,” “parental rights,” and other terms using the word rights appear in the news every day. We have become so accustomed to the word, we don’t often think about what it means. A right may be described as a claim to have or obtain something, or to act in a way that is justified on legal or moral grounds. For example, you might claim the right to practice your own religion and justify it by appealing to the First Amendment to the Constitution. This is not, of course, the only justification you could give.

In describing the concept of natural rights, philosophers like John Locke were making a bold, new departure from previous uses of the term rights. Before the time of Locke and other natural rights philosophers, the concept of rights had been applied in a very limited and selective way. More often than not, rights were considered special privileges, enjoyed only by certain groups, classes, or nations of people.

Natural rights philosophers disagreed with this interpretation. They believed that people’s opportunities should not be limited by the situation or group into which they were born. These philosophers regarded the individual, rather than the class or group, as the most important social unit. They saw society as a collection of individuals, each of whom shared the same right to pursue his or her own welfare.

Locke, for example, defined natural rights in terms of life, liberty, and property because he considered them to be the essence of humanity. They are what make us human beings and what define our purpose in life. They are inclusive rights, belonging to every human being. These rights Locke also considered to be unalienable. This means they are so much a part of human nature that they cannot be taken away or given up.

One of the great conflicts of principles is that which exists between fundamental rights on the one hand and sovereign power on the other. This conflict was an important factor in the American Revolution and in the Civil War. A fundamental right is one that cannot be revised or taken away by any power. Sovereignty is that power within a state beyond which there is no appeal—whoever has the sovereign power has the final say.

In 1990 the Supreme Court ruled in *Texas v. Johnson* that the burning of an American flag as a political protest, however distasteful an act to many Americans, was protected under the free speech provision of the First Amendment. The Court’s decision prompted demands for a constitutional amendment prohibiting the desecration of “Old Glory.” President George H.W. Bush publicly endorsed such an amendment.

Had the proposed amendment been adopted, it would have added to the Constitution for the first time the prohibition of a particular form of expression. It would also have represented a limitation on one of the essential freedoms guaranteed in the Bill of Rights.

This incident reminds us that it is within the sovereign authority of the American people to revise or abolish entirely the Bill of Rights. What do you think the incident suggests about the protection of rights in a constitutional democracy? Does it suggest that the theory of fundamental rights is irrelevant? What does it suggest about the relevance of the natural rights philosophy?

1. How do the following statements apply to this situation? What principles and ideals are implied in each statement? How, if at all, do these principles conflict with each other?

a. *We the People of the United States . . . do ordain and establish this Constitution . . .*

Preamble to the Constitution

b. *Congress shall make no law . . . abridging the freedom of speech.*

First Amendment

c. *All lawful authority, legislative, and executive, originates from the people. Power in the people is like light in the sun, native, original, inherent, and unlimited by any thing human.*

James Burgh

d. *No written law has ever been more binding than unwritten custom supported by popular opinion.*

Carrie Chapman Catt

e. *You have rights antecedent to all earthly governments; rights that cannot be repealed or restrained by human law; rights derived from the Great Legislator of the Universe.*

John Adams

f. *The people made the Constitution and the people can unmake it. It is the creature of their own will, and lives only by their will."*

John Marshall

g. *No one cause is left but the most ancient of all, the one, in fact, that from the beginning of our history has determined the very existence of politics, the cause of freedom versus tyranny."*

Hannah Arendt

h. *When I refuse to obey an unjust law, I do not contest the right of the majority to command, but I simply appeal from the sovereignty of the people to the sovereignty of mankind.*

Alexis de Tocqueville

2. Which, if any, of these statements do you find most persuasive? Why?

3. What is your position on the issue? Explain the reasons for your position in terms of the situation itself and in terms of the principles involved.



## 5. The Dangers and Benefits of Energetic Government

One of the major issues of the last two decades has been health care reform. In addition to the many, complex aspects of health care itself, there also is a constitutional aspect to this issue: the benefits and dangers of government power. A national health care plan would mean a substantial expansion of the federal government's involvement in the private sector. Health care services now comprise about fifteen percent of the nation's economy and are rising each year.

Advocates of comprehensive health care reform argue the need for government to take charge of what has become a serious problem in contemporary America. They would point to precedents such as the Social Security System, which was created in 1935 as part of the New Deal. Critics of a national health care plan, on the other hand, express concern about any substantial increase in government bureaucracy. A national health care system administered by the government, they believe, constitutes a potential threat to individual liberty.

With the complexities and demands of modern American society, what are the proper limits to an energetic government? What criteria should the citizen employ in evaluating the benefits and dangers of government regulation?

1. How do the following statements apply to this situation? What principles and

ideals are implied in each statement? How, if at all, do these principles conflict with each other?

- a. ... *[to] promote the general Welfare.*

Preamble to the Constitution

- b. *To make all Laws which are necessary and proper for carrying into Execution the foregoing Powers.*

Constitution, Article 1, Sec. 7

- c. *If, my countrymen, you wait for a constitution which absolutely bars a power of doing evil, you must wait long, and when obtained it will have no power of doing good.*

Oliver Ellsworth

- d. *A government ought to contain in itself every power requisite to the full accomplishment of the objects committed to its care, and to the complete execution of the trusts for which it is responsible, free from every other control, but a regard to the public good and to the sense of the people.*

Alexander Hamilton

- e. *I own I am not a friend to a very energetic government. It is always oppressive.*

Thomas Jefferson

2. With the complexities and demands of modern American society, what are the proper limits to an energetic government?
3. Which, if any, of these statements do you find most persuasive? Why?
4. What is your position on this issue? Explain the reasons for your position in terms of the situation itself and in terms of the principles involved.

## 6. Capital Punishment and the Constitution

With the exception of the issue of separation of church and state, no issue has focused so sharply the question of constitutional interpretation and the role of the judiciary in making such interpretation as the death penalty. Shortly before his retirement in 1994, Justice Harry Blackmun announced that he would no longer vote in favor of implementation of the death penalty. While he did not exactly say that capital punishment was unconstitutional, his remarks suggested that because the death penalty had become so repugnant to him, he would no longer have anything to do with its enforcement.

Justice Blackmun's remarks were controversial, in part because of the strong opinions on the death penalty issue in the United States. They also were controversial because of what they suggested about how the words of the Constitution should be interpreted and the degree to which a judge's subjectivity should influence that interpretation.

Is the death penalty constitutional? Its opponents say no. They maintain that the penalty itself violates the "cruel and unusual punishment" of the Eighth Amendment both the manner of taking life and the long delays that usually accompany it. Opponents also have argued that implementation of capital punishment violates the equal protection clause of the Fourteenth Amendment, since its application falls disproportionately on the poor and minorities.

Other citizens, including some who are opposed to the death penalty as a policy, say it is constitutional. The text of the Constitution, they argue, makes clear that the Framers intended to allow for capital punishment. It is up to the people through their representatives—and not to judges—to decide on whether or not to employ this option.

If you were a justice on the Supreme Court, how would you approach this issue? What outlook and criteria would you use to interpret the words of the Framers? What would you consider to be the proper role of judges in addressing this issue? Would you take a different position if you were a legislator?

1. How do the following statements apply to this situation? What principles and ideals are implied in each statement? How, if at all, do these principles conflict with each other?
  - a. *... nor cruel and unusual punishments inflicted.*  
Eighth Amendment
  - b. *No punishment has ever possessed enough power of deterrence to prevent the commission of crimes.*  
Hannah Arendt
  - c. *No person shall be ... deprived of life, liberty, or property, without due process of law ...*  
Fifth Amendment
  - d. *Then thou shall give for a life, eye for eye, tooth for tooth ...*  
Exodus, 21:23-24
  - e. *Thou shalt not kill.*  
Exodus, 20:13

2. What is the difference between the constitutional principles, a. and c., and the passages from the Bible, d. and e.? What is it about these ideas that allows people to reach opposing points of view? Because something is legal, does that make it moral?
3. Which, if any, of these statements do you find most persuasive? Why?
4. What is your position on this issue? Explain the reasons for your position in terms of the situation itself and in terms of the principles involved.

## POSTSCRIPT

*Our Constitution is a covenant running from the first generation of Americans to us and then to future generations. It is a coherent succession. Each generation must learn anew that the Constitution's written terms embody ideas and aspirations that must survive more ages than one.*

Justices O'Connor, Kennedy, and Souter



*The U.S. Supreme Court Building.*



## LESSON OVERVIEW

This lesson involves students in a number of critical thinking exercises. Each exercise presents a series of quandaries representing many great ideas and principles that have shaped our constitutional heritage, some contradictory but of equal merit to the others. In each exercise, students apply principles and ideas to a contemporary issue and then take a position and defend their judgments.

## LESSON OBJECTIVES

At the conclusion of this lesson, students should be able to

- explain in what ways the American experiences in self-government can be called an “adventure in ideas.”
- evaluate, take, and defend positions on a number of issues related to the fundamental principles and values of government and individual rights in American society.

## TEACHING PROCEDURES

### A. Introducing the Lesson

To introduce the lesson, direct attention to the photograph on page 3 and its caption.

*Do you have an obligation as a citizen and a human being to exercise your moral authority when injustice occurs?*

Ask students to respond to the question.

Have the class read the “Purpose of the Lesson.” Discuss with students why they think it might be important in a representative democracy to discuss and debate ideas and issues related to the principles that have shaped our constitutional heritage.

### B. Reading and Discussion

Have the class read “Why are fundamental principles important?” Students should understand that our nation was not created by common culture, geography, or centuries of tradition. Our nation was created by ideas. “In the long run,” John Maynard Keynes observed, “It is ideas and not men who rule the world.”

Next, have the class read, “What did the Founders mean by returning to first principles?” Discuss with the class the importance in a republican democracy of reminding each new generation of citizens why we have government and the principles upon which that government is based.

### C. Critical Thinking Exercises

During each of the six critical thinking exercises in this lesson, students examine and evaluate a contemporary situation and determine which fundamental principles apply to the issues raised in the exercise. Students then take and defend a position on how to resolve the situation on the basis of the fundamental principles involved.

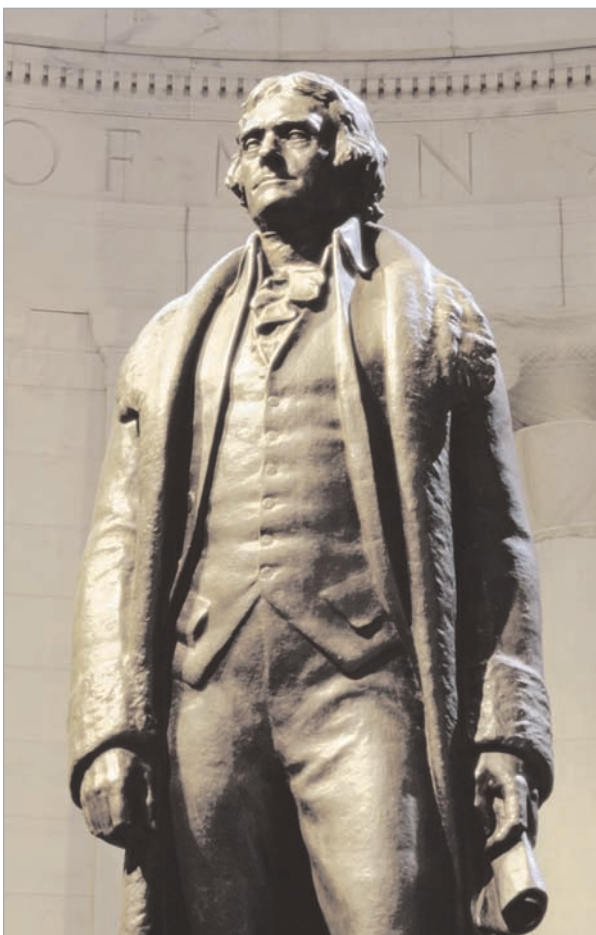
You may want to have all students work on each of the six exercises. If so, divide the class into small groups. Review the exercises and the questions with the class. At the conclusion have the students share their responses with the class.

As an alternative, divide the class into six groups and assign one exercise to each group. Have each group prepare a presentation for the other students in the class. All students in the group should participate in the presentation and respond to questions from other groups.

#### **D. Concluding the Lesson**

To conclude the lesson, have each group of students present and discuss the issues in one of the critical thinking exercises. All students should be encouraged to participate in debating the ideas related to each of the situations described.





This supplemental lesson celebrating the Constitution is adapted from *We the People: The Citizen and the Constitution*, Level III, Lesson 18, “How Was the Constitution Used to Organize the New Government?”. This 1995 text was published by the [Center for Civic Education](#).

This Constitution and citizenship lesson is cosponsored by The American Association of School Administrators. AASA, founded in 1865, is the professional organization for over 14,000 educational leaders across America and in many other countries. AASA’s mission is to support and develop effective school system leaders who are dedicated to the highest quality public education for all children. AASA’s major focus is standing up for public education.

The [Center for Civic Education](#) is a nonprofit, nonpartisan educational corporation dedicated to fostering the development of informed, responsible participation in civic life by citizens committed to the values and principles fundamental to American constitutional democracy.

The Center specializes in civic/citizenship education, and international education exchange programs for developing democracies. For additional information on the Center’s programs and curricula, contact the [Center for Civic Education](#).

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