

If It Doesn't Work, Change It

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INTRODUCTION

The United States Constitution was ratified 211 years ago. To the average 8th grade student, understanding the process it took to write this document and how it works is overwhelming. Most 8th grade teachers are pleased if they can just get their students to memorize the Bill of Rights, explain how a bill becomes a law, and draw a diagram of how the three branches check each other. Then it's onto the next chapter. This process of teaching creates an illusion in the students' minds that the Constitution is just a 211 year old document that you can go look at in Washington, D.C., but that it really has no relevance to their lives. The understanding of the Constitution being a living document that is used every day is often never introduced to students until they take government in their senior year in high school, if even then.

The unit I am writing is designed to allow 8th grade American History students of all levels and abilities to see the Constitution as a tool that actually impacts them and their families. The time period I have chosen for this unit is the 1960's and its melee of political, cultural, and legal occurrences. Many of these events either directly used or changed the Constitution for the better or worse depending on one's views. This time period will clearly show that if something in the government is not working or meeting the needs of the times that it can be changed. Students today are extremely interested in the 1960's and using this time frame as my base I will hold the students' interest. More importantly the 1960's demonstrate how a person, a group of people, an event, or a movement can facilitate in making necessary changes occur. It is hoped that the words and beliefs of Thomas Jefferson on changing a government when it does not meet the people's needs will become real to the students instead of something they read in their textbook. In the curriculum that follows this introduction I am including background information for teachers to use, various levels of classroom activities as well as assessment tools. The curriculum unit consists of two lesson areas which include events of the 1960's that involved the Constitution. These two areas are *Miranda vs. Arizona* and the ratification of the 26th Amendment. All activities can be modified to meet the various needs and abilities of the students. This curriculum unit is designed to be used in part or in whole, and last anywhere from one week to four weeks depending on the needs and interests of the particular class.

GOALS AND OBJECTIVES

This curriculum unit has five main goals. All of these goals are designed to allow each student to better understand the workings of the Constitution and the part it plays in every citizen's life.

1. Goal one will concentrate on the structure of the Constitution and how it can be changed to meet the needs of the changing time.
2. Goal two will focus on the various types of movements during the 1960's that helped bring about changes and enforcement of the Constitution.
3. Goal three will demonstrate to the students that the Constitution was written for the protection of each citizen.
4. Goal four will present the theory that the Constitution is a document that should have blinders on when it comes to race, gender, and economic status therefore allowing the student to acquire sensitivity to other cultures, ethnic groups and people of various socioeconomic statuses.
5. Goal five will allow students to understand the ramifications of Supreme Court decisions.

As the students are introduced to the activity sections of the unit, objectives will be presented for both the teacher and students to help narrow down the information into usable and attainable lessons. Other goals and objectives may also be fit into this curriculum unit.

STRATEGIES

To teach the lessons in this curriculum unit, it is absolutely necessary that student participation take place. These goals, objectives, and concepts need to be presented in a fashion that makes learning fun and so interesting that the material will be understood and retained by the students with ease. Strategies used in this unit are:

1. use of speakers
2. use of official documents
3. introduction of debating skills
4. use of high level questioning that provokes controversy
5. analysis of music and films

LESSON TOPIC ONE

When studying the writing and arguments over the ratification of the Constitution, 8th grade students learn of the Anti-federalist's insistence that a Bill of Rights be added to the document before they would support its ratification. In the following lesson, students will learn that it was not until 1966, that some of the rights guaranteed to accused lawbreakers were officially put into a procedural fashion and enforced.

In March of 1963, Ernesto Miranda, a twenty-three year old Mexican was arrested in Phoenix, Arizona, for raping an eighteen year old movie attendant. Mr. Miranda was placed in a line-up with three other Mexican males and picked by the victim, although she admitted she was not positive of the identification. After a two hour interrogation, Mr. Miranda signed a written confession. He was arraigned in a court, appointed a lawyer, and later convicted of the crime. He received two concurrent terms of 20-30 years imprisonment. What seemed to be a routine rape case turned into one of the greatest trials of American History. Mr. Miranda's case ended in the United States Supreme Court, where on June 13, 1966, Chief Justice Earl Warren, speaking for a 5-4 majority of the Supreme Court Justices overturned Mr. Miranda's conviction, and for the first time established unequivocal guidelines for what is and what is not permissible in the interrogation room. (Knappman, p. 506)

How did this routine rape trial from Arizona end up with a United States Supreme Court ruling? It seemed that there was some question as to whether Mr. Miranda's confession had been properly obtained. Apparently, the police never told Mr. Miranda that he had the right to remain silent, to have a lawyer, and that he did not have to make any statements that may be used against him at his trial. Ernesto Miranda was released from prison and the procedure by which custodial interrogation may be conducted was spelled out clearly for law enforcement officials. Hence, the Miranda Rights were conceived.

As background, Ernesto Miranda had not been a model citizen before his arrest for rape in 1963. He had been jailed prior for attempted rape. After new evidence was discovered, he was again tried and found guilty in February 1967 of the March 1963 rape. He was paroled in 1976 and stabbed later that year in a bar fight. The student should be aware that Mr. Miranda's character is not the issue of this lesson.

Being arrested because of minority and economic status was a very common occurrence in the 1960's. The points that will be made clear to 8th grade American History students are that (1) police procedures changed after the 1966 Supreme Court decision of the Miranda case, (2) and that no matter a person's ethnicity or

socioeconomic background, everyone is entitled to his/her civil liberties assured by the Bill of Rights.

It has been argued that Miranda Rights interfere with law enforcement officials gaining confessions. Many guilty people are thought to have gone free either because of the Miranda Rights violations or limitation set by the Miranda Rights. Paul G. Cassell, in his website, writes that 3.8 percent of all criminal cases are never resolved due to the lack of a confession and that this loss is directly attributable to the use of a Miranda warning. This is an issue that the Supreme Court might find before it in the future.

The following activities are designed for 90 minute block scheduled classes.

ACTIVITIES FOR LESSON ONE

Activity A - Objective: The students will match the parts of the Miranda Card to the appropriate amendment in the Bill of Rights and explain why the Supreme Court made their 1966 Miranda decision.

The teacher will give not more than a fifteen minute introduction to the *Miranda vs. Arizona* case. Depending on the reading level of the class, this lesson could last one to two days. The short lecture will start out by asking the students a question to jump start their thinking. The question will be something like, “What if I refused to give all of you textbooks to help do your work, even though the state law says I must?” How would that make you feel? After the lecture-introduction, each student will be given a portion of the *Miranda vs. Arizona* Supreme Court Case. The students will read and highlight sections of the document where they consider Mr. Miranda’s rights were violated and sections showing how this case’s decision provided safeguards for persons arrested in the future. As a class, students will discuss the various highlighted parts. The teacher will ask students to explain their highlighted choices and to which parts of the Bill of Rights each applies.

After this is done, the teacher will distribute a Miranda card to each student (attachment 1). Have the students read the card (both in Spanish and English), and ask for comments. They will match specific parts of the Miranda Card to the appropriate amendment. Then distribute the Miranda statement document that is signed by accused persons in many states after they are arraigned (attachment 2). Have students fill out the document using their personal information and signature. The following discussion questions should follow.

1. Were Mr. Miranda's rights violated? Explain.
2. Do you believe his ethnic background played a part in the violation of his rights? Explain.
3. Should a person's past legal activities be considered when considering a present case?
4. Would a person arrested while driving a new Lexus be treated the same as someone arrested while driving a 20 year old Buick?
5. How did you feel while you were filling out the Miranda document?
6. Does the Miranda Statement say enough? Is it enough to safeguard fair treatment of an arrested suspect?
7. Are having the Miranda cards in both Spanish and English necessary?
8. Should the rights of an arrested suspect be left to each city, county, state, or federal government to decide?

Activity B - Objective: The students will be able to produce an original political cartoon on the *Miranda vs. Arizona* decision.

Assignment: The teacher will review the discussion of Miranda case from previous day. After a short discussion, each student will create an original political cartoon of the *Miranda vs. Arizona* decision. ESL students and students of lower academic ability will be asked to draw a picture of what occurred in some part of the Miranda Case. The students will be allowed to write as many words on the picture as needed to explain their thoughts. The students may even wish to draw the steps that led to the Miranda Supreme Court decision in cartoon strip style. At the end of class, each student will present his/her cartoon or drawing to the class. Students in the class will comment on the works, seeing if they can interpret what the artist is saying. Then each student will explain his/her own cartoon and elaborate on the reason why there is a particular sequence, or symbolism in his/her art work.

Activity C - Objective: The students will distinguish between an adult's Miranda Rights when arrested and the Miranda Rights of a juvenile when arrested.

Students will naturally start asking during the course of the Miranda Lessons about their own Miranda Rights as a juvenile. Most history teachers can accurately answer these questions, but many times the students will take the teacher's explanation with a grain of salt. After all, teachers work for "the system". To accurately answer these questions, a police officer and a criminal lawyer will be asked to class as guest speakers. Students will be prepared with questions written beforehand, to make sure they don't freeze when the visitors come. After explanations and questions are answered, the police officer will be asked to handcuff a volunteer student as a

demonstration. During the demonstration, the police officer will show the Miranda Rights of an adult, and those of a juvenile. It will be worked out beforehand with the lawyer and the police officer that some of the volunteer student's rights will be violated to see if the other classroom students pick up on these violations. The lawyer will be asked to play the part of a court-appointed defense attorney for another volunteer student, while the police officer interrogates him/her. After the speakers leave, a debriefing with the class will be held about what they heard and saw.

Homework Assignment: Citing evidence given by one of the day's speakers, the students will answer the following essay question. They are also to find a newspaper article on juvenile crime.

Essay Question: If you were arrested by the police, do you feel your rights are sufficiently protected? Why or why not? Be ready to submit your answer in written form and to defend it orally before the class tomorrow.

Activity D - Objective: The students will decide if the Miranda Rights are a help or a hindrance to our legal system and society.

For years, there has been controversy over the Miranda Rights i.e., are they protecting people's rights or hindering law enforcement officials? A brief discussion on this issue will be held with the class. Each student will be given a copy of an article from the *New York Times*, entitled "As Miranda Rights Erode, Police Get Confessions From Innocent People," March 30, 1998, and one from the *Personal Law Forum*, "What is the Practical Effect of Miranda?" The students will analyze verbally the two opposing opinions the articles present. An episode of *The Practice*, aired on ABC, Sunday, May 9, 1999, will be shown. The students will pick out and record scenes from this show that deal with Miranda Rights and the question of their necessity.

Assignment: This is to be used as an assessment test. Using the Document Based Writing Format, the students are to answer the following essay question. What is more important, following the Constitution, which guarantees each citizen his/her inalienable rights or making sure that as many guilty people as possible receive punishment?

LESSON TOPIC TWO

Since the conception and ratification of the Constitution, there have always been groups of people whom this document seemed not to address or please. Much of this discontent seemed to be over the issue of who did and did not have the right to vote in

the United States of America. The Constitution did not address this issue. This was considered a reserved power that allowed each state to adopt its own state constitution which gave qualifications for voting. Each of these state constitutions had a common denominator when it came to voting, only white males, 21 years of age could vote. In a few states land qualifications were also necessary and free blacks were allowed to vote in specific Northern states. Both these state specific qualifications were short lived due to Westward expansion and growing racism in both the North and South.

The status quo of 21 year old white males being the voting populous lasted for almost 100 years after the ratification of the Constitution. This however does not mean that there were not protests and rumblings of possible and necessary change throughout the country. Even before the Constitution was written, Abigail Smith Adams wrote many letters to her husband trying to persuade him to extend the rights of women. One of Mrs. Adams' letters makes the point that if particular care and attention is not paid to the ladies, we are determined to foment (create) a rebellion, and will not hold ourselves bound by any law in which we have no voice or representation. (Breen, p. 198) Mrs. Adams' pleas unfortunately were to no avail.

Free blacks and slaves also felt as if they had no representation in government because of their denial of the vote. Women, free blacks, and abolitionists, both black and white, tried at various times to get their opinions heard, but not enough people in powerful positions were listening. Women were seen as too fragile and often too uneducated to participate in an activity such as voting, and free blacks were after all "blacks" and slaves were only good for 3/5th a person when it came to representation in the House of Representatives and certainly could not be trusted with casting the "right" vote.

Not until the end of the Civil War did the issue of a black vote in this country seriously surface. However it took three amendments to get this black vote. It was a painful process for the United States and white men in the North and South were not willing to share their power with Blacks easily, even a Constitutional Amendment (15) guaranteeing black suffrage did not keep terrorism, intimidation, torture, poll taxes, literacy tests, and ballot box stuffing from attempting to make sure the status quo remained.

All the while women like Carrie Chapman Catt, Alice Paul, and Susan B. Anthony worked vigorously in the NWSA (National American Women's Suffrage Associates) for a voice in the political process. It was not until 1920 when the 19th Amendment was passed guaranteeing Women's Suffrage, the Civil Rights Acts of

1964, and the passage of the 24th Amendment abolishing the poll tax that women and blacks felt they were somewhat instrumental in the choosing of people that represented them.

Now, it's 1965 and women of all colors are able to vote, men of all colors can vote, assuming that all states are abiding by the 1964 Civil Rights Acts. However, all is not quiet on the Western Front. The United States is in turmoil over the war in Vietnam. Young men are being drafted starting at age 18 and being sent to Vietnam to fight and maybe die. So one might say this is common during time of war. This may have been true in the past; however, the world is now in the 1960's a time of countercultures, questioning, and defiance. Out of this questioning and defiance arises "Why are we old enough to be drafted and go to war, yet we cannot vote for the representatives that are sending us there?" A new issue concerning the national voting age arose in the United States. This issue was that of allowing all citizens 18 years old to vote in national elections. Why had it taken almost 200 years for this country to question the magic number of 21? One explanation is that the age of 21 has had a mythical quality in the United States. It is at this age that a young man or woman supposedly becomes an adult. The magic age of 21 was derived from the English tradition of Common Law. It is a legacy of the minimum age required for knighthood. (Seedman, p. 1) Most 18 year old boys in the United States in the 1960's were more worried about being killed in Vietnam than becoming a knight.

When the argument arose for lowering the voting age to 18, there were of course arguments for and against it. It was very hard to make an argument against this issue. There was not organized opposition to the lowering the voting age. The few conservative opponents there were made statements such as 18 year olds were to young and immature and their votes would skew the issues. Probably most feared by the opponents of the 18 year old vote was that this young group of voters would forever radicalize society.

Proponents of the 18 year old vote realized that this group of young people was not about to back down on something about which they strongly believed. This had been demonstrated at the 1968 Democratic Convention in Chicago, at Kent State in 1970, the march from Selma to Montgomery in 1965, and the numerous protests, riots, moratoriums, and music lyrics being recorded and sung at pop festivals that were occurring throughout the nation. These young people were demanding their right to help make decisions that effected their lives. Vietnam was the rallying point.

Through organizations like the Voting Age Coalition reasons were put before the public why the national voting age should be lowered. Some arguments were:

- the 18-20 year old group has the highest level of education of any other group in the population
- due to mass media, today's youth are much better informed than their counterparts in the past years
- 60 percent of the 18, 19, and 20 year olds work full-time and pay all the taxes which adults do
- at age 18, citizens are no longer protected by juvenile law
- youth have demonstrated great social and political responsibility in their participation in service organizations and political campaigns
- the majority of the service men now fighting and dying in Vietnam are in this age bracket, yet they have neither a voice in U.S. policies, nor in the men who make them

As early as January 7, 1954, President Eisenhower expressed in his State of the Union Address that for years our citizens between the ages of 18 and 21 have, in time of peril, been summoned to fight for America. Eisenhower urged Congress to propose to the States a Constitutional amendment permitting citizens to vote when they reach the age of 18. (Seedman, p.1)

The 26th Amendment (1971) is the fourth amendment in history that helped give people what should have been allowed in a democratic-republic since its inception of the Constitution. The other three were the 15th Amendment (1870), 19th Amendment (1920) and 24th Amendment (1964). The passage of the 26th Amendment has made teaching history and government more interesting and relative to students especially during a presidential election. Voter registration cards are now passed out during Senior Government classes. Politically minded musicians have booths set up where music goers can register to vote. Sometimes whether a student just turning 18 exercises his/her right to vote can depend on school history/government class experiences. Certainly teen voting and MTV didn't hurt Bill Clinton's election in 1992.

ACTIVITIES FOR LESSON TWO

Activity A - Objective: The students will cite reasons why and methods used to get a national 18 year old vote.

Assuming there has been at least a 30 minute lecture on the 26th Amendment, the students will spend two to three days on the following lesson activities: students will view excerpts from a PBS video on the 1968 Democratic National Convention in Chicago, excerpts from the movie *Coming Home*, and excerpts from the video *The*

Demise of Jim Crow focusing on the Selma March in 1965. Discussion between teacher and students, students and students will occur when necessary. Lyrics from Jefferson Airplane's "Volunteers of America", Country Joe and the Fish's "Fish Cheer", Bruce Cockburn's "Rocket Launcher", and numerous others will be analyzed. Excerpts from the video *Woodstock* will also be shown.

Day 2 and perhaps part of day 3 the movie, *Born on the Fourth of July*, will be shown. This movie is the story of real-life Vietnam veteran Ron Kovic. Kovic's had been a high school football star who joined the Marines, but returned home with his legs paralyzed. The movie shows the various stages of Kovic's life and his eventual activity protesting the war in Vietnam.

Assignment: On the third day of this activity the following discussion questions will be answered in writing and then discussed orally in class.

1. Is wanting the 18 year old vote a weak or strong argument for protesting and opposing the war in Vietnam?
2. At 14-15 years of age now do you feel that at 18 you will have had enough political background to cast an intelligent vote?
3. Should participating in a political campaign be part of history and government curriculums in middle and high school?
4. If students would have had the right to vote at 18 would the Democratic Convention in 1968 have possibly been less violent? Why or why not?
5. Explain some tactics you have experienced in the last 3 days that were used in the anti-war movement. Do you consider them effective?
6. What is your opinion of using sarcasm and mockery against the government to make a point and perhaps move closer to a goal?
7. Could it be possible for someone to make a comparison between anti-war protestors and the communist element or the Ku Klux Klan? Give specific examples.
8. All students in the 1960's were not active in protest movements or worried about changing the voting age. What could account for this?
9. Women finally got the right to vote with out having to resort to violence. Why was violence so necessary in the 1960's to ratify the 26th Amendment and try to stop the war in Vietnam?
10. Do you think you could ever feel strong enough about a cause to go to jail, leave the country, or die for that cause?

Homework Assignment: Give a voter's registration card to each student. The student will have a person 18 years or older who is not registered fill out the card. The student will bring this card back to school within 3 days. The teacher will turn the completed cards into the proper location.

Activity B - Objective: The students will create a newspaper that will demonstrate the mood, issues, and turmoil of the 1960's, that helped lead to the 26th Amendment.

Assignment: Explanation will be given for the following newspaper exercise. This assignment will be done in and out of class. The students will have one week to complete the assignment. Students will be assisted by teacher and fellow students. This assignment must be done in newspaper format.

The 1960's - A Newspaper

Minimum 5 pages

Date of newspaper - from 1962 - 1972

Price - ? Remember the time period ...

Name of publication: ? Be creative; consider if it is a Liberal or Conservative newspaper - is it a Northern or Southern newspaper

Editor: YOU!

Contents: news stories (at least 3) - must be factual and illustrated; for example: Tet Offensive, Woodstock, 1968

Chicago Democratic Convention, Kent State, a
Presidential State of the Union Address

advertisements: Remember the time period.

Use a newspaper format - headlines, columns, etc.

One of each of the following must be included: Sports

Weather

"Dear Abby"

Obituaries

Social events

Classified ads

Political cartoon (must be original)

CONCLUSION

This unit was designed specifically to allow students to better understand the workings of the Constitution and the document's importance in their lives. It also allows students to have first hand experience with legal and political documents and persons who make their living dealing with the issues mentioned above. This curriculum unit could be expanded by discussing the 24th Amendment, and challenges to the 1st Amendment that arose during the 1960's. Each of these areas show the Constitution working through the amending process or judicial review. Remember the more relevant the lesson, the more knowledge gained and the more exciting the classroom.

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TEACHER'S READING LIST

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Wigginton, Eliot. *Refuse to Stand by: An Oral History of Grass Roots Social Activism in America 1921-1964.* People such as Rosa Parks, Lucille Thornburgh, and Pete Seeger tell their stories.

STUDENT'S READING LIST

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ACTIVITIES RESOURCE LIST

VIDEO RESOURCES

The Fabulous 60's: An Overview - MPI Home Video

The Strange Demise of Jim Crow - University of Texas Press

The Practice - T.V. show aired May 9, 1999 on ABC

The Constitution - A Delicate Balance - PBS Collection

Coming Home - MGM 1978

Born on the Fourth of July - Oliver Stone Production 1989

Woodstock - Warner Brothers 1970

MUSIC RESOURCES

“The Fish Cheer” - song by Country Joe and the Fish

“Rocket Launcher” - song by Bruce Cockburn

“Volunteers of America” - song by Jefferson Airplane

OTHER RESOURCES

Volunteers in Public Schools - Speaker List (lawyer, policeman)

Miranda Cards

Voters Registration Cards

ATTACHMENT I
Miranda Card

AWARNING TORBERTIEN RECROSSING

- 1 You have the right to remain silent and not make any statement at all and that any statement you make may be used against you and probably will be used against you at your trial;
- 2 Any statement you make may be used as evidence against you in court;
- 3 You have the right to have a lawyer present to advise you prior to and during any questioning;
- 4 If you are unable to employ a lawyer, you have the right to have a lawyer appointed to advise you prior to and during any questioning;
- 5 You have the right to terminate this interview at any time.

SPANISH VERSION

- 1 Tiene usted el derecho de mantener su silencio y decir absolutamente nada. Cualquier declaración que usted haga se podrá usar en su contra en la causa en que se le acusa.
- 2 Cualquier declaración que usted haga se podrá usar como evidencia en su contra en corte.
- 3 Tiene usted el derecho de tener un abogado presente para que él le aconseje antes de que se le hagan preguntas y durante el tiempo que se le esté haciendo preguntas.
- 4 Si no puede emplear un abogado, tiene usted el derecho a que se le asigne un abogado para que él le aconseje antes de o durante el tiempo que se le hagan preguntas.
- 5 Tiene usted el derecho de terminar esta entrevista en cualquier momento que usted desee.

ATTACHMENT II

Miranda Rights

1. You have the right to remain silent.
2. Anything you say can and will be used against you in a court of law.
3. If you are under the age of 18, anything you say can be used against you in a juvenile court prosecution for a juvenile offense and can also be used against you in an adult court criminal prosecution if the juvenile court decides that you are to be tried as an adult.
4. You have the right to talk to an attorney before answering any questions.
5. You have the right to have your attorney present during the questioning.
6. If you cannot afford an attorney, one will be appointed for you without cost, before or during questioning, if you desire.
7. Do you understand these rights?

I have read or have had read to me the above explanation of my constitutional rights and I understand those rights.

Suspect's signature

Understanding my constitutional rights I have decided not to exercise these rights at this time. Any statements made by me are made freely, voluntarily, and without threats or promise of any kind.

Officer's signature

Suspect's signature

Date/Time

Location