**One Document, Under Siege (*Time Magazine)***

Richard Stengel

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creators of the Constitution

political viewpoint

right= conservative

left= liberal

Perfect

reach

Here are a few things the framers did not know about: World War II. DNA. Sexting. Airplanes. The atom. Television. Medicare. Collateralized debt obligations. The germ theory of disease. Miniskirts. The internal combustion engine. Computers. Antibiotics. Lady Gaga.

People on the right and left constantly ask what the framers would say about some event that is happening today. What would the framers say about whether the drones over Libya constitute a violation of Article I, Section 8, which gives Congress the power to declare war? Well, since George Washington didn't even dream that man could fly, much less use a global-positioning satellite to aim a missile, it's hard to say what he would think. What would the framers say about whether a tax on people who did not buy health insurance is an abuse of Congress's authority under the commerce clause? Well, since James Madison did not know what health insurance was and doctors back then still used leeches, it's difficult to know what he would say. And what would Thomas Jefferson, a man who owned slaves and is believed to have fathered children with at least one of them, think about a half-white, half-black American President born in Hawaii (a state that did not exist)? Again, hard to say.

The framers were not gods and were not infallible. Yes, they gave us, and the world, a blueprint for the protection of democratic freedoms — freedom of speech, assembly, religion — but they also gave us the idea that a black person was three-fifths of a human being, that women were not allowed to vote and that South Dakota should have the same number of Senators as California, which is kind of crazy. And I'm not even going to mention the Electoral College. They did not give us income taxes. Or Prohibition. Those came later.

Americans have debated the Constitution since the day it was signed, but seldom have so many disagreed so fiercely about so much. …

**Where's the Crisis?**  
… Everywhere there seems to be debate about the scope and meaning and message of the Constitution. This is a healthy thing. Even the framers would agree on that.

So, are we in a constitutional crisis? In a word, no. The Constitution was born in crisis. It was written in secret and in violation of the existing one, the Articles of Confederation, at a time when no one knew whether America would survive. The Constitution has never *not* been under threat. Benjamin Franklin was skeptical that it would work at all. Alexander Hamilton wondered whether Washington should be a king. Jefferson questioned the constitutionality of his own Louisiana Purchase.

argument within a group

hard to see clearly

guidelines

represent

Today's debates represent conflict, not crisis. Conflict is at the core of our politics, and the Constitution is designed to manage it. There have been few conflicts in American history greater than the internal debates the framers had about the Constitution. For better or for worse — and I would argue that it is for better — the Constitution allows and even encourages deep arguments about the most basic democratic issues. A crisis is when the Constitution breaks down. We're not in danger of that.

…

There is an old Latin phrase, *inter arma enim silent leges*, which roughly translates as "in time of war, the Constitution is silent." But it's not just in times of war that the Constitution is silent. The Constitution is silent much of the time. And that's a good thing. Two hundred twenty-three years after it was written, the Constitution is more a guardrail for our society than a traffic cop. The Constitution works so well precisely because it is so opaque, so general, so open to various interpretations. Originalists contend that the Constitution has a clear, fixed meaning. But the framers argued vehemently about its meaning. For them, it was a set of principles, not a code of laws. A code of laws says you have to stop at the red light; a constitution has broad principles that are unchanging but that must accommodate each new generation and circumstance.

…

A constitution in and of itself guarantees nothing… A constitution must embody something that is in the hearts of the people. In the midst of World War II, the great judge Learned Hand gave a speech in New York City's Central Park that came to be known as "The Spirit of Liberty." It was a dark time, with freedom and liberty under threat in Europe. Hand noted that we are Americans by choice, not birth. That we are Americans precisely because we seek liberty and freedom — not only freedom from oppression but freedom of speech and belief and action. "What do we mean when we say that first of all we seek liberty?" he asked. "I often wonder whether we do not rest our hopes too much upon constitutions, upon laws and upon courts. These are false hopes; believe me, these are false hopes. Liberty lies in the hearts of men and women; when it dies there, no constitution, no law, no court can even do much to help it."

The Constitution does not protect our spirit of liberty; our spirit of liberty protects the Constitution. The Constitution serves the nation; the nation does not serve the Constitution.

That's what the framers would say.

**Teacher’s Guide**

Name of Text: **One Nation, Under Siege (*Time Magazine, June 23, 2011)***

First and Last Names of the Question Composers: **Denise Coverley-Paxton, Kristie Falls, Melanie Cueto**

**Standards:**

Nevada State: H2.5.7, C13.5.1,

CCSS: RI.5.1, RI.5.2, RI.5.4, RI.5.8, RI.5.10

Essential Understanding: The Constitution is a guiding set of principles, not a set of laws. The Constitution is open to interpretation today as it was when it was written.

| Text Dependent Questions | Teacher Notes and Possible Textual Evidence  for Student Answers |
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| 1. Based on the title of this article, what inferences can you make about the “One Document” it is referring to? | 5: reference to “the framers”  11: mention of Article I, Section 8, gives Congress the power to declare war. |
| 2. In lines 5-20, the author refers to “the framers” multiple times. Who are some of the framers?  - What are some of the examples the author uses to indicate that the framers lived in a different time period? | Framers are: 12: George Washington. 16: James Madison. 18: Thomas Jefferson  5-8: WWII, DNA, Sexting, Airplanes, the atom, Television, Medicare, Collateralized debt obligations, the germ theory of disease, miniskirts, the internal combustion engine, computers, antibiotics, Lady Gaga  10-20: drone strikes, flight, GPS, taxation, health care and the commerce clause, a mixed race president, Hawaii. |
| 3. What freedoms did the framers protect in the Constitution? Conversely, what inherent inequalities does the author identify?  How does this evidence support the authors claim that “the framers were not Gods and were not infallible?” | Protected: 22: democratic freedoms, freedom of speech, assembly, religion  Inequalities: 23-24: black person was three-fifths of a human being. 24: women were not allowed to vote. 25: Equal representation in the Senate  26: The Electoral College  Shows that the founders were “men of their time” living within a certain context and understanding of the world that does not cross over into the realities of today’s society. |
| 4. What is the author’s viewpoint about being “in a constitutional crisis?” What evidence does he use to support this viewpoint? | 33: “So, are we in a constitutional crisis? In a word, no.”  39: Today’s debates represent conflict, not crisis  41-43: Debate and conflict encourages argument about the most basic democratic issues  43-44: A crisis is when the Constitution breaks down. We’re not in danger of that. |
| 5. What figurative language does the author use in lines 46-51 to show that the Constitution was written as a set of principles, not a code of laws?  Describe one example of this figurative language in your own words. | 46-47: In times of war, the Constitution is silent. The silent nature of the document allows for interpretation  49-50: The Constitution is more a guardrail for our society than a traffic cop. The guard rail acts as a guide or deterrent, rather than a traffic cop which is more absolute, unyielding, as an enforcer.  50-51: It is opaque, general, open |
| 6. Explain why Judge Learned Hand believes that, “A constitution in and of itself guarantees nothing.” | 57: A constitution must embody something that is in the hearts of the people.  61: We are Americans by choice, not birth and seek liberty and freedom- It’s a choice.  64-67: Liberty lies in the hearts of men and women, not in constitutions, laws and courts- these are false hopes. When liberty dies, there is not constitution, no law, no court can help it.  68-69: The Constitution does not protect our spirit of liberty; our spirit of liberty protects the Constitution. The Constitution serves the nation; the nation does not serve the Constitution. |

**Writing Prompt:**

According to the author, where does the power of the Constitution lie: In the document or with the people? Construct a paragraph. Create a claim and use evidence and reasoning from the article to support your answer.

**Possible Answer:**

The author believes the power lies with the people. As the Constitution was born out of intense debates, the framers themselves believed that the debate of the document would be healthy. The principles which the document outlines work because they are general enough that people can debate them, an intention of the framers. The document is a reflection of what is in the heart of the people it serves (lines 57-78). In line 66 he cites judge Hand to Support his claim when he quotes that “liberty lies in the hearts of men and women. Hand also goes on to say that when freedom and liberty has been challenged, Americans actively stand up to protect these ideals because being an American is a way of life (lines 61-62). The United States was born in an attempt to free people from oppression. Finally the author concludes that a spirit of liberty (line 68) protects the Constitution. This spirit is a feeling generally held by most Americas (lines 61-63).