

U.S. History textbook standard review criteria

These facts relate to major topics that all U.S. History textbooks cover, but each expresses a politically incorrect, anti-big government, and/or pro-free market perspective that the education establishment seeks to censor. (This is only a partial listing. Contact us for more.)

Colonial religion fostered independence.

- Church polity encouraged self-rule:
 - Lack of a bishop in America meant lay control of Anglican churches.
 - Congregationalism brought local autonomy.
 - Presbyterianism involved representative government.
- Calvinist covenant theology nurtured constitutionalism.
- The Great Awakening promoted self-determination:
 - Stressed equal opportunity for salvation (spiritual rebirth over reason; free will over predestination in Methodism).
 - Reaffirmed Protestant individualism (priesthood of all believers; right of each person to interpret Scripture)
 - United colonies in common experience.
 - Expanded most those denominations (Baptists, Methodists) that favored disestablishment.

British Acts of Parliament between 1763 and 1775 violated all these rights of Englishmen.

- Taxation by consent of property-owners
- Trial by jury of peers
- Presumption of innocence
- Due process of law before property seizure
- Liability for unlawful property seizure
- Speedy trial
- No standing army in peacetime without consent
- No quartering of troops in private homes
- Freedom of travel in peacetime

The first Congress refused Madison's bid to word the Bill of Rights to apply to the states as well as to the federal government.

Congress saw no conflict between the First Amendment denying federal support of religion, and its confirmation of the Northwest Ordinance which stated, "Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged."

Madison and Jefferson held that the "general welfare" clause authorized the federal government to exercise only its enumerated powers — the purpose of enumerated powers being to exclude unenumerated powers.

Madison and Hamilton agreed (in the *Federalist*) that the federal government was supreme over the states only in the exercise of its exclusively delegated powers, and that the states were supreme over it in exercise of their constitutionally reserved powers.

Judicial review, said the *Federalist*, would determine whether executive and legislative acts were within their Constitutional grants of power.

Threat of impeachment would keep judges from using judicial review to legislate.

To insure the uniform and predictable rule of law, Jefferson and Madison said the original intent of a law's authors must prevail.

Jefferson and Madison denied that the federal government alone was the sole judge of the constitutionality of its acts, for that would make the federal government rather than the Constitution sovereign. States too, they wrote, should sit in judgment of the extent of federal power under the Constitution, to help protect the people.

Jeffersonians repealed the Judiciary Act of 1801, firing 16 federal judges by abolishing their offices.

As a further check and balance, Jeffersonians and Jacksonians thought each branch of the federal government (not just the Supreme Court) should decide an action's constitutionality.

- John Marshall expected Secretary of State Madison to ignore a Supreme Court order to give William Marbury his commission.
- President Jefferson, citing the equality of branches of government, refused Chief Justice Marshall's subpoena to testify at Aaron Burr's trial (but did offer to give a deposition). Jefferson also decided which papers on the case were public records that the court could see, and which papers he would withhold under executive privilege.
- Jackson vetoed recharter of a national bank because he believed it unconstitutional, even though the Supreme Court had declared it constitutional.
- Lincoln called the *Dred Scott* decision not settled constitutional interpretation unless the other branches of the federal government concurred.
- Lincoln suspended habeas corpus in some instances during the Civil War despite a Supreme Court prohibition.

When institutions of government disagreed on constitutional interpretation, Jeffersonians and Jacksonians looked to the people to resolve the dispute at the next election.

Following the original intent of the 14th Amendment, Supreme Court rulings at first narrowly defined the rights of both whites (1873 *Slaughterhouse* cases) and of blacks (1883 *Civil Rights* cases) as U.S. citizens.

Constitutional restraints on federal power gradually diminished.

- *McCulloch v. Maryland* (1819)
Supreme Court constitutionalized the Bank of the United States, despite a Constitutional Convention vote not to empower the federal government to charter corporations.
- *Knox v. Lee* (1871)
Supreme Court constitutionalized U.S. fiat paper money as legal tender, despite a Constitutional Convention vote not to allow this.
- 16th Amendment (1913)
Direct federal taxation of incomes departed from the Constitution's original reliance on indirect taxation only.
- 17th Amendment (1913)
With U.S. Senators no longer elected by state legislators, states lost their check on federal power.
- 18th Amendment (1919)
In national prohibition the federal government exercised states' reserved police power over health, welfare, safety, and moral issues.
- The New Deal tried to promote prosperity by:
 - price inflation (withdrawing gold coins from circulation)
 - monetary inflation (expanding bank credit)
 - restricting production (AAA, SCDA Act)
 - restraining price competition (NIRA)
 - restraining wage competition (NIRA, NLRA, FLSA)
- *NLRB v. Jones and Laughlin Steel* (1937)
Supreme Court said the federal government under the interstate commerce clause could regulate intrastate *production*.
- *Wickard v. Filburn* (1942)
Supreme Court said the federal government under the interstate commerce clause could regulate intrastate *consumption*.
- Korean (1950) and Vietnam (1964) Wars
Presidents committed U.S. forces to overseas combat without the Congressional declaration of war required by the Constitution.

Supreme Court power grew over time due to neglect of the original intent of the Constitution.

- Sherman Anti-Trust Act (1890)
So vaguely worded was this Act that Congress in effect delegated to the federal judiciary the power to legislate on the subject, violating the separation-of-powers principle.

Gitlow v. New York (1925)

Supreme Court claimed jurisdiction over state free-speech laws on the ground that the 1st Amendment free-speech clause restrains the states through the 14th Amendment due-process clause. (The Bill of Rights' original intent was to restrain only the federal government, letting states write their own free-speech laws. The due-process clause's original intent was only to restrain states from denying the procedural common-law rights of the accused to indictment and reply in court.)

Supreme Court equated what was wise, just, or reasonable, with what was constitutional.

- "Sociological jurisprudence"
Supreme Court said an Oregon law limiting women's workday to 10 hours was constitutional on public health grounds, not because the Constitution reserves police powers to the states (*Muller v. Oregon*, 1908).
- "Clear and present danger" doctrine
Supreme Court upheld the conviction under federal law of socialists who during WWI mailed pamphlets opposing the draft, even though the 1st Amendment says that "Congress shall make no law ... abridging the freedom of speech, or of the press" (*Schenck v. U.S.*, 1919).

Reaganomics had benefits as well as defects.

- "The wealthy" (i.e., the top quintile of households in terms of annual income) received the most income because this quintile contained the most people — about 25% of the population in the 1980s, compared to about 15% for the bottom quintile (and also more than each of the middle three quintiles).
- Tax cuts promoted economic expansion. Deficits of the 1980s protected that expansion by restraining government growth. Political liberals were the most upset about those deficits.

How this info helps you

Having it ready to hand saves you much time and effort.

Teachers can supplement U. S. History texts that omit it.

Those adopting U.S. History books can use it as grounds to reject the worst.

It gives publishers guidelines for improving future editions.