



T E X A S  
F R E E D O M  
N E T W O R K  
E D U C A T I O N  
♦ F U N D ♦

# **A Triumph of Ideology over Ideas: *A Review of Proposed Textbooks for High School U.S. Government in Texas***

**Emile Lester, Ph.D.<sup>1</sup>**

**Associate Professor**

**Department of Political Science and International Affairs**

**University of Mary Washington**

*A report from the Texas Freedom Network Education Fund  
September 2014*



## About the Author

Emile Lester is an associate professor in the Department of Political Science and International Affairs at the University of Mary Washington and previously taught at The College of William and Mary. His book *Teaching Religions: A Democratic Approach for Public Schools* was published by University of Michigan Press in 2011. The book was based in part on his research report *Learning About World Religions in Public Schools*, which was published in May 2006 by the First Amendment Center. His work has been featured or appeared in various media outlets including *The New York Times*, *The Washington Post*, *USA Today*, National Public Radio, and C-Span among other media outlets. The First Amendment Center and Wesley Theological Seminary hosted a special forum on the book at the Newseum in Washington, D.C. He was also one of a select number of panelists invited to participate in a symposium on the PBS series *God in America* at the Newseum.

His numerous articles on various topics in political science and related to religion and politics have appeared in a variety of scholarly journals, including *The Review of Politics*, *Polity*, *Journal of Church and State*, *Politics and Religion*, and *Public Affairs Quarterly*. He has also written for the prestigious public affairs journal, *The American Interest*, and the esteemed education magazine, *Phi Delta Kappan*. An award-winning teacher, he was identified as one of the best professors at The College of William and Mary in the 2005 *International Studies Institute College Guide*. Professor Lester is currently working on a book examining political thought and American presidents, focusing particularly on the presidencies of Franklin D. Roosevelt and John F. Kennedy.



---

## Introduction: A Missed Opportunity

A full understanding of the historical roots and principles of United States government is impossible without an understanding of religion's influence on our Founders. The Founders' fierce defense of individual liberty drew on the Protestant Reformation's enhanced emphasis on individual conscience. The first Great Awakening inspired a questioning of political as well as established religious authority that was crucial to the American Revolution. Roger Williams's evangelical Christian view that churches should be gardens untouched by the wilderness of politics contributed to the Founders' and our respect today for religious freedom.

High school textbooks about U.S. government offer a wonderful opportunity for students and teachers alike to explore the religious roots of our government through an appropriate, accurate, and balanced discussion of important elements of the Jewish and Christian religious traditions. Unfortunately, five of the seven textbooks under review did not take advantage of this opportunity. These textbooks too often focused on controversial and vague claims backed by little or no discussion of evidence concerning the religious influences on the Founders. Instead of focusing on the Great Awakening's well-documented influence on the American Revolution, for instance, several of these texts made nebulous assertions about how Moses and Mosaic Law inspired the Founders. While focusing on the positive ways that biblical and historical Christianity affected the Founders' views, these texts neglected to mention that some of the Founders occasionally reacted against central political and religious ideas associated with biblical and historical Christianity.

The material presented in these textbooks on this issue seems to have been determined more by political concerns than considerations of good scholarship. On the one hand, the decisions of these textbooks seem to have been strongly influenced by the suggestions and requirements of the Texas State Board of Education (SBOE). For instance, that the Texas SBOE suggested in the 2009-10 debate over curriculum standards that Moses influenced the writing of the nation's founding documents and that several textbooks mention Moses' influence on the Founders seems to be no coincidence. On the other hand, the frequently vague nature of the textbooks' statements about the influence of Moses and other religious ideas and figures on the Founders seems to indicate that the publishers did not want to be held accountable by scholars or those critical of the SBOE's standards. Unfortunately, the result of this at once overly controversial and overly careful strategy is the failure to provide students with an understanding of the influence of religion on our Founders that rests on sound scholarship and captures the diversity of the Founders' views. These textbooks too often settle for giving students' vague impressions about the Founders and religion while denying them the crucial information necessary to evaluate these claims. The SBOE and these textbooks have collaborated to make students' knowledge of American history a casualty of the culture wars.

Despite these serious problems, the news from this review is far from all bad. Two of the textbooks reviewed did a satisfactory job of discussing the influence of religion on the Founders. This review also examined the seven textbooks' performance on four other topics: church-state relations, federalism, judicial philosophy, and economics. Although some textbooks provided inaccurate or biased treatments on three of these issues as well, most of the texts' discussions of these issues were acceptable or admirable. The Edmentum and WorldView textbooks provided



acceptable coverage on all of the five topics covered by this review and were models of balance and accuracy.

Although several textbooks stand out for their overall accuracy and balanced approach, one textbook unfortunately stands out for its consistent pattern of lack of balance and occasional inaccuracy. The Pearson textbook provided inaccurate or biased coverage on three of the five areas this review focused on, and a treatment of affirmative action verges on the offensive. On the issues of the influence of religion on the Founders, judicial philosophy, economics, and affirmative action, this publisher chose to follow either its own or the SBOE's ideological inclinations and missed the opportunity to give students a nuanced portrait of the range of public and scholarly opinions. In several places this textbook offered editorial opinions on and cartoons about current events intended to influence students' views that serve no educational purpose and are not suitable in a public school textbook. This reviewer has serious reservations about whether adoption of the Pearson textbook is appropriate for Texas U.S. government public school classes.

The materials reviewed here come from seven publishing companies: Houghton Mifflin Harcourt, Pearson Education, WorldView Software, Perfection Learning, McGraw-Hill School Education, Social Studies School Service, and Edmentum. The list below summarizes this review's major findings about the textbooks on five topics where the Texas SBOE had provided the companies with questionable requirements or guidelines.

***Topic I. During the debate over social studies curriculum standards in 2009-10, State Board of Education members sought to emphasize what they saw as important religious influences on the nation's founding documents and the formation of American government. They went so far as to suggest, for example, that Moses was an important influence in the writing of the nation's founding documents. Does the textbook exaggerate or inappropriately diminish the influence of religion and religious laws and ideals on the development of American government?***

**Findings:** To be accurate and unbiased, claims of religious influences on the Founders need to demonstrate at least two qualities. First, they should be well-defined and provide decent evidence for their claim. They should identify specifically the concepts and figures of biblical and historical Judaism and Christianity that influenced the Founders and specify which ideas, political institutions, and founding individuals were influenced by these concepts and figures. Second, claims about religious influence on the Founders should acknowledge the diversity of religious and political thought among the Founders for the sake of balance. Claims that concepts from biblical and historical Judaism and Christianity influenced the Founders should also mention to students when there is evidence that some Founders were reacting against these concepts or fundamentally reinterpreting those concepts in non-religious ways. Similarly, when textbooks contend that many Founders were faithful to biblical and historical Judaism and Christianity, they should also acknowledge that other Founders were critical of important elements of biblical and historical Judaism and Christianity and were influenced by religious ideas such as deism that differ from biblical and historical Judaism and Christianity.

The treatments of the influence of religion on the Founders in five of the seven textbooks reviewed do not meet these two standards of accuracy and balance. The Pearson text claims, for instance, that the "roots of democratic government" can be found in "Judeo-Christian philosophy" but does not identify specific models or examples of democratic government in the Bible that



influenced the Founders. The Perfection textbook contends that Moses contributed the “concept” to the Founders that “a nation needs a written code of behavior.” The claim does not specify which founding document or Founders were influenced by this concept. The McGraw-Hill textbook contends that the “biblical idea of a covenant . . . contributed to our constitutional structure” without acknowledging that the social contract idea the Founders derived from John Locke was in part a reaction against the biblical idea of a covenant. The Social Studies School Service textbook claims that “much of the Founders’ commitment to liberty and individual rights” was influenced by “Christian teachings” without acknowledging the fundamental ways in which the Founders’ conception of liberty differed from the Christian conception of liberty preached in the Bible and practiced by historical Christians such as the American Puritans.

Several of these texts are also misleading because they fail to distinguish the relative influence that different ideas and historical figures had on the Founders. The Perfection textbook, for instance, has a box focusing on “a few of the people whose words influenced the content of” the Constitution that devotes a paragraph to Moses, John Locke, Charles de Montesquieu, and William Blackstone. The text is problematic not only because its claim that Moses influenced the Constitution is vague, but because it misleadingly suggests to students that these individuals exercised *equal influence* on the thought behind the Constitution. Montesquieu and Blackstone are mentioned several times in *The Federalist Papers*, for instance, but Moses is not mentioned once.

The following is a partial list of the problematic passages from these texts and brief explanations of why the passages are problematic:

- The McGraw-Hill text mentions Moses and claims that the “biblical idea of a covenant, an ancient Jewish term meaning a special kind of agreement between people and God, influenced the formation of colonial governments and contributed to our constitutional structure.” The American Founders did believe in a social contract, but their version of the contract was derived primarily from modern British political thought, and John Locke’s thought in particular. Locke’s version of the social contract was in many ways a repudiation of the biblical covenant view referenced in this passage. The parties to the biblical covenant were God, the people, and the government. The purpose of government in this conception was to help its members live according to God’s will. By contrast, the Lockean social contract was a voluntary agreement between only the people and their government. The main purpose of government in this conception of the contract was to secure important natural rights belonging to the individual. *The passage thus provides the student with almost the opposite of the historical truth.* The Social Studies School Service text also has a similarly flawed discussion of the influence of the “Law of Moses” on the Founders.
- The Perfection Learning text has a table entitled “Where did the Founders get their ideas?” The introductory section to the table states: “When the Framers set out to write the Constitution, they drew upon the wisdom of philosophers, historians and economists. Here are a few of the people whose words influenced the content of that remarkable document.” Moses is listed first on this list followed by John Locke, Charles de Montesquieu, and William Blackstone. The



“Concept” Moses is alleged to have contributed is that “A nation needs a written code of behavior.” The description of Moses includes the following sentences: “During their years of wandering in the desert of the Sinai, Moses handed down God’s Ten Commandments to the Hebrews. These commandments now form the bedrock on which the Jewish, Muslim, and Christian codes of behavior are based. The full account of Moses’ life can be found in the Bible’s book of Exodus.” Unlike the contributions of the other three figures mentioned in the table, the contribution of Moses is highly nebulous and contestable. The passage neglects to mention which types of codified behavior influenced the Framers and thus makes it difficult to evaluate its claim. The Framers, for instance, were not influenced by the codification of the first four Commandments, which deal with matters of religious belief and practice. Notable Framers such as James Madison led the battle against government punishment of unorthodox religious beliefs and required governmental financial support for religious institutions. The other three figures in the table are linked to distinctive ideas such as “natural individual rights” and “separation of powers” that are evident in the nation’s founding documents. Montesquieu and Blackstone receive mention, for instance, in the Federalist Papers that supported the Constitution’s ratification. Many of Locke’s central ideas, such as his belief in natural rights and his views on the legitimacy of revolution, are either paraphrased or otherwise alluded to in the Declaration of Independence. Moses is not mentioned in the nation’s founding documents such as the Declaration of Independence and Constitution or in the Federalist Papers. Finally, as a matter of historical and scholarly accuracy, there is a fundamental difference between stating as matter of fact that John Locke wrote *The Second Treatise on Government* and that “the full account of Moses’ life can be found in the Bible’s book of Exodus” or that “Moses handed down God’s Ten Commandments.” The textbook does not acknowledge this difference. The textbook should have made an attempt to distance itself from the claims it is describing as other textbooks did. Stating, for instance, that “Jews and Christians believe that Moses handed down God’s Ten Commandments” would have been more acceptable. Without this qualification, the text seems to endorse the truth of these biblical claims.

- The Houghton textbook has a section on “Judeo-Christian Influences” that reads: “The Framers’ political thinking was influenced by a Judeo-Christian religious heritage, which includes traditions common to both Judaism and Christianity. These religions see the law and individual rights as being of divine origin. Moreover, the Framers benefited from the Protestant Reformation, a sixteenth-century Christian reform movement whose leaders developed ideas about individual responsibility, the freedom to worship as one chooses, and self-government.” The text, however, gives no example of a law or set of laws in the Bible that influenced the Founders and no example of a Founder or a founding document that was influenced by the “Judeo-Christian” concept of law. By contrast, when the text discusses the influence of Charles de Montesquieu, John Locke, and William Blackstone on the Founders, it references particular works and ideas of these authors that influenced the Founders. The text’s claim that the Reformation was a source of the Founders’ views on individual responsibility is on



firmer ground. At the same time, this claim omits several important pieces of information. Major figures in the Protestant Reformation such as Martin Luther and John Calvin may have supported freedom of worship for their own views, but they often did not support freedom of worship for many competing religious views. Similarly, the views of major Reformation figures including Luther and Calvin about self-government were far more limited than, and had little in common with, the views of the American Founders about self-government. Finally, the paragraph could leave students with a misleading impression about the Founders' religious views. The passage's claim that Judaism and Christianity stresses that individual rights is of "divine origin" and that these views influenced all of the Founders suggests that all of the Founders believed that this biblical God was the source of natural rights. Many Founders did, of course, believe in the biblical God. Other Founders, though, were influenced by deism, and their conception of God departed in significant ways from the biblical God. The textbook would have been more accurate if it had specified that some Founders believed that "nature's God," not the biblical God, was the source of the natural rights of individuals and included at least a brief discussion of the differences between these conceptions of God.

- The Social Studies School Service materials make a vague claim that "much of the Founders' commitment to liberty and individual rights sprang from their belief" in ideals derived from Christianity. The passage ignores that the Christian conception of liberty has several different possible interpretations and legacies. The dual legacy of Christian views about liberty is evident in John Winthrop's 1645 speech before the Massachusetts General Court. Winthrop famously advocates "civil" or "moral" liberty, or liberty that is used to obey God's law. Winthrop argues that government has the right to occasionally enforce "moral" liberty. Most Founders, though, sided with John Locke in affirming what Winthrop described as "natural" liberty or freedom from government, and they largely rejected the Puritan conception of "moral" liberty. The Protestant emphasis on individual conscience rooted in the Christian tradition did help to inspire Locke's and the Founders' conception of liberty, but the Founders were also reacting *against* a different conception of liberty that also had deep roots in the Christian tradition.
- The Pearson textbook's treatment of the influence of religion on the Founders involves a pattern of vagueness and ambiguity. For instance, the textbook declares that: "The roots of democratic government in today's world – including government in the United States – lie deep in human history. They reach back most particularly to ancient Greece and Rome, and include elements related to Judeo-Christian philosophy, dating back thousands of years to Old Testament texts and Biblical figures such as Moses and Solomon." The New Testament has nothing explicitly to say about political institutions besides St. Paul's statement in his Epistle to the Romans, Ch. 13: "Let every person be subject to the governing authorities." St. Paul does not distinguish in this chapter between obedience to democracies and obedience to other forms of government. The forms of



government mentioned in the Old Testament/Hebrew Bible are theocracy and monarchy. Prominent figures in the Old Testament are occasionally critical of monarchy but did not advocate democracy as an alternative, and the limited monarchy occasionally practiced in ancient Israel bears little resemblance to American democracy. Even if it were accurate that government in the Old Testament had democratic features, the text never tells us how these democratic features directly influenced the Founders. Similarly, if the text claims to find roots of democracy in Judaism and Christianity, it also should mention that there was much in the theory of and practice of biblical and historical Christianity that is contrary to democracy. Even more problematic perhaps is the “Biography of Moses” the text provides students, which states: “Moses was a lawgiver and a great leader. Like the founders of the United States, he helped establish a legal system to govern his people. The Ten Commandments have been a guide and basis for many legal and moral systems throughout the world.” The annotation to the biography states: “Moses helped establish a legal system, including the Ten Commandments, to govern his people. Similarly, the founders of the United States wrote the Constitution and established a system of laws to govern Americans. They were also part of a tradition that was familiar with the Ten Commandments as a guide for moral behavior.” The passage gives an exaggerated impression to students about the influence of and relationship between Moses and the Founders. The legal system that Moses founded had theocratic elements, which made it very different from the republican system of law the Founders established. Similarly, the text neglects to mention that the Founders were reacting against elements of the moral, legal, and political tradition associated with Moses and the Ten Commandments. The American Puritans clearly did try to pattern their government directly on the model attributed to Moses, and several key Founders rejected the theocratic elements in Puritan politics and morality. If the text is going to discuss Moses’ influence on the Founders, then it also should – for the sake of balance – discuss how the Founders rejected elements of the biblical tradition attributed to Moses.

By contrast, the Edmentum textbook successfully avoids making vague, controversial, and unsubstantiated statements about the influence of religion on the Founders. Just as significantly, the Edmentum text includes specific and well-documented claims about the religious roots of our form of government. The Edmentum text appropriately and accurately mentions, for instance, that “even before landing in the New World, the Pilgrims signed the Mayflower Compact, agreeing to abide by laws that they would create themselves, establishing the concept of consent of the governed early in the colonial experience.” This specific claim about the direct influence of the Mayflower Compact on the “colonial experience” stands in particular contrast to the nebulous claim in the McGraw-Hill text about the indirect influence of the biblical idea of the covenant on “our constitutional structure.”

***Topic II. During the debate over social studies curriculum standards in 2010, a majority of State Board of Education members refused to pass a requirement that students learn how the Constitution protects religious freedom by barring government from promoting one religion over all others. Supporters called the requirement important to teaching students about separation of church and state. But opponents said separation of church and state is not a constitutional***





**principle. They succeeded in passing a requirement that students “compare and contrast” the phrase “separation of church and state” with the wording of the First Amendment. Does the textbook present separation of church and states as an important constitutional principle repeatedly upheld by the courts?**

**Findings:** Four of the texts we reviewed did not demonstrate any pattern of bias or inaccuracy on the relationship between church and state. Two of the texts, however, McGraw-Hill and Perfection, were unbalanced because they did not provide adequate coverage of the strong separationist position advocated by several Founders. *The McGraw-Hill textbook in particular gives the strong impression of conforming its discussion of separation of church and state to the problematic SBOE requirement that textbooks should “compare and contrast” the “separation of church and state” with the wording of the First Amendment.*

Thus, the text states: “Thomas Jefferson once referred to the establishment clause as a ‘wall of separation between church and state.’ That phrase is not used in the Constitution, however.” The statement is factually correct, but it could give students the inaccurate impression that Jefferson’s view was personal and lacked significant connection to the First Amendment. The passage neglects to mention, for instance, the significant affinity between the views of Jefferson and James Madison. The two fought vigorously alongside each other in Virginia in the 1780s for the recognition of freedom of conscience as a “natural and absolute right.” (The phrase comes from Madison’s autobiographical essay.) This is a notable omission because although Madison did not draft the First Amendment alone, his impact on the drafting and enactment process was greater than that of any other Founder. The text also neglects to mention reference to Jefferson’s “wall” metaphor in important Supreme Court establishment clause cases, such as Justice Hugo Black’s decision in *Everson v. Board of Education*, the first Supreme Court case to apply the establishment clause to the states and local government.

The Perfection text does not mention Thomas Jefferson’s use of the phrase “wall of separation between church and state” at all. The text also includes an unbalanced discussion of the background to the Supreme Court’s seminal ruling against school prayer in *Engel v. Vitale*. The discussion has four paragraphs that are devoted primarily to examining the logic of the rulings of lower, state courts in favor of school prayer. These paragraphs mention that “neither the Constitution nor its writers discussed the use of prayer in public schools” and that the judges in these cases “noted that the prayer did not fall into the same category as Bible readings or religious instruction in public schools.” These four paragraphs are followed by only a single paragraph about the Supreme Court’s majority opinion striking down school prayer, which contains little discussion of the logic of that opinion.

By contrast, the Worldview textbook’s treatment of the church-state relationship was exemplary. The text provided an extended and inclusive discussion of the diverse strands of thought that influenced the adoption of the First Amendment. The text mentions Thomas Jefferson’s use of the “wall” metaphor.” *More significantly, the text has a commendably balanced and thought-provoking discussion of both the religious and secular roots of the American tradition of religious freedom.* Worldview’s is the only text to acknowledge that an “‘evangelical’ view that government involvement would corrupt religion” was an important influence on First Amendment thought. The text also includes an even-handed assessment of a significant range of judicial



approaches to the establishment clause, including the “strict separation,” “neutrality,” and “accommodation” approaches.

**Topic III. *Does the textbook provide balanced discussions of issues involving the role of the courts? Do discussions about so-called “judicial activism” appear to support a particular political bias, or are they generally balanced and accurate in explaining competing opinions?***

**Findings:** Six of the textbooks reviewed are adequately balanced and accurate in their treatments of judicial activism and judicial restraint. The Social Studies School Service package stands out for an exceptional degree of care and nuance in its handling of this issue. The package’s overall balance is apparent from this representative passage: “Judicial activism recognizes that the two elected branches represent the will of the people and usually make fair and just decisions, but also that members of society who lack the resources or political clout to effectively convince the policy-setting branches to see their side sometimes need a voice. Judicial activists assume the responsibility for rejecting harmful actions by government or individuals and for charting new constitutional directions.” The text also notes problematic decisions rooted in the judicial restraint philosophy including the upholding of “state laws favoring ‘separate but equal.’” The text’s identification of perhaps the most esteemed of all Supreme Court justices, John Marshall, as the first judicial activist is thought-provoking and reflects that the text at times portrays judicial activism as well as judicial restraint in a positive light.

Most significantly, the Social Studies School Service package does not treat judicial activism as synonymous with liberalism or judicial restraint as synonymous with conservatism. The following passage is illustrative: “Recognizing whether a court has exercised judicial activism or judicial restraint becomes difficult when looking only at political ideology (liberal or conservative). However, both are important doctrines for courts when deciding cases and for the public’s understanding of courts’ rulings.” The Edmentum text makes a similar, laudable observation: “Liberalism and conservatism, however, do not necessarily correlate with judicial activism and judicial restraint. In the late 1800s and early 1900s, for instance, the Supreme Court struck down a number of liberal measures, including the income tax and the minimum wage. In this case, the judicial activism of the court favored political conservatives.”

This acknowledgement that conservatives as well as liberals can and have acted in ways that constitutional scholars would recognize as judicial activism is missing, however, from the Pearson text. Instead the text’s sole paragraph on judicial activism associates it “especially” with “cases involving civil rights and social welfare issues.” The paragraph in the text devoted to judicial restraint is equally misleading. “The proponents of judicial restraint,” the text writes, “believe that judges should decide cases on the basis of (1) the original intent of the Framers or those who enacted the statute(s) involved in a case, and (2) precedent—a judicial decision that serves as a guide for settling later cases of a similar nature. They say that the courts should defer to policy judgments made in the legislative and executive branches of the government and, in so doing, honor the basic premise of self-government: the right of the majority to determine public policy.” The passage neglects to mention that original intent can conflict with precedents, and thus that justices following original intent will not always uphold precedent. More crucially, judicial reliance on original intent can often lead to a conflict with rather than affirmation of “the right of the majority to determine public policy.” In recent years, conservative justices preaching judicial restraint and critical of judicial activism have succeeded in or sought to strike down campaign



finance laws (*Citizens United v. FEC*), health care reform (*National Federation of Independent Business v. Sebelius*), and crucial sections of the 1965 Voting Rights Act (*Shelby County v. Holder*) that Congress enacted. Conversely, justices who have eschewed primarily reliance on original intent have been more likely recently to uphold Congressional legislation in cases related to federal regulation of interstate commerce than justices who rely more heavily on original intent. *This text missed an important opportunity to give students a nuanced and balanced understanding of the diversity of opinion among constitutional scholars on judicial restraint and activism.*

**Topic IV. Concerns about federal-state roles and responsibilities were common throughout the debate over the new social studies curriculum standards in 2009-10. Does the textbook provide balanced discussions of the respective roles and responsibilities of national and state governments and conflict/disagreement (such as debates over “states’ rights”) over those roles today?**

**Findings:** None of the texts demonstrated an unacceptable level of bias or inaccuracy in their treatment of the relationship between federal and state governments. The Houghton Mifflin Harcourt textbook provided a particularly well-balanced treatment of this issue. The text notes that the Framers believed in a limited federal government, but also that this preference was likely the result of historical context: “In 1787 the nation’s people were spread far apart, and its transportation and communications systems were far too primitive to make governing from a central location feasible.” The text proceeds a discussion of the evolution of the federal-state relationship, including accurate and balanced treatments of the periods of dual federalism, nullification and secession, cooperative federalism, creative federalism, New Federalism and devolution, and fiscal federalism.

The only slight exception to this pattern is the McGraw-Hill textbook. That text at times gives the impression of being tilted in favor of federalism through omission. For instance, the text asks students to consider a “guiding question”: “Why does federalism increase opportunities for political participation?” The question then claims: “Federalism increases opportunities for American citizens to participate in politics. A citizen can choose to run for local office, to lobby the state government, or to campaign for a candidate for national office.” By itself, this argument is unobjectionable. However, the text has no accompanying mention of the possible drawbacks of federalism, and the text has no “guiding question” addressing the value of enhanced federal power. In addition, this text, unlike several others, provides very little discussion of the historical development of the relationship between the federal and state governments. Since the federal government’s power has expanded significantly over American history, omitting much of this history means students are not taught about the crises that led to this expansion, and the ways that expanded federal power may have helped to resolve them. Still, the bias in this text towards federalism is neither explicit enough, nor expressed frequently or extremely enough, for the text to be considered biased overall.

**Topic V. In its review of the Texas curriculum standards for U.S. History classes, the conservative Thomas B. Fordham Institute complained that “students are pressed to uncritically celebrate the ‘free enterprise system and its benefits.’ ‘Minimal government intrusion’ is hailed as key to the early nineteenth-century commercial boom – ignoring the critical role of the state and federal governments in internal improvements and economic expansion.” This theme was repeated in the debate over curriculum standards for U.S. Government. Some State Board of**



***Education members emphasized the negative effects of government regulation and taxation on economic innovation and growth. Does the textbook provide balanced discussions of the effects of government taxation and regulation on free enterprise and the economy generally?***

**Findings:** Six of the textbooks reviewed did not demonstrate any discernible tendency to press students to “uncritically celebrate the ‘free enterprise system and its benefits.’” Unfortunately, the Pearson textbook represents a major exception to this pattern. This textbook provides a heavy-handed, ideological discussion on a range of economic matters. *The text’s discussion of taxation corresponds with the views of some SBOE members of its negative effects on economic growth, and the text’s treatment of the free enterprise is almost uniformly celebratory.* It is appropriate that the text discusses the virtues of the free enterprise system. It is inappropriate, however, that the text includes very little discussion of possible criticisms and limits of the free enterprise system, and very little mention of the possible defenses of the safety net programs that taxation helps to fund.

Here is a sampling of representative quotes from the text related to free enterprise and laissez-faire economic systems: (1) “The atmosphere of a free market, as well as a free society that encourages the exchange of ideas, can and often does lead to innovation and scientific and technological discoveries. All these conditions promote growth in the economy and often improve the quality of everyday life.” (2) “The proper role of government in economic affairs should be restricted to functions intended to promote and protect the free play of competition and the operation of the laws of supply and demand. True laissez-faire capitalism has never in fact operated in this country, yet it has a profound effect on the structure of the nation’s economic system, which can be described as laissez-faire capitalism with limited government involvement.” (3) “The American commitment to freedom for the individual is deep-rooted, and it is as evident in the nation’s economic system as it is in the political system. The American economic system is often called the free enterprise system.” (4) “Democracy and the free enterprise system are not the same thing. One is a political system, and the other is an economic system. However, both are firmly based on the concept of individual freedom. America’s experience with both systems clearly suggests that the two reinforce one another in practice.” (5) “In the United States all people are entitled to equal protection under the law. Political equality, of course, is not the same as economic equality. The capitalist system of the United States enables some to achieve greater financial rewards than others. However, other economic systems – socialism and communism – do seek to distribute wealth more evenly across the society.”

By contrast, students are given little awareness that critics of a laissez-faire system both in the U.S. today and the past have argued that an unfettered market can and has led to economic insecurity and inequality, unfair pay and unsafe labor conditions for many employees. (The only limit of the free enterprise system the text mentions is the government’s need to regulate monopolies in the late 19<sup>th</sup> and early 20<sup>th</sup> century to ensure free and fair competition.) Similarly, the text neglects to mention as a counterbalance to quotes linking the free enterprise system with the American tradition of liberty (quotes 3 and 4 above) that critics of a pure free enterprise system would argue it may limit economic freedom by interfering with equality of opportunity of working-class Americans and the bargaining rights of employees. The text could also have mentioned that a free enterprise system with substantial income inequality might interfere with political freedom by providing greater political access to the affluent and ignoring the concerns of those who are not affluent.



These passages also provide an unbalanced and misleading description of the American economic system. By tying the American tradition so tightly to the free enterprise system, they imply that departures from the free enterprise system are incompatible with the American tradition. This implication is, in fact, made explicit in the following passage: “In the United States all people are entitled to equal protection under the law. Political equality, of course, is not the same as economic equality. The capitalist system of the United States enables some to achieve greater financial rewards than others. However, other economic systems – socialism and communism – do seek to distribute wealth more evenly across the society.”

The text neglects to distinguish between varying types and degrees of income redistribution. Support for a modest degree of income redistribution is arguably consistent with support for capitalism and the free enterprise system, and there is a long tradition of substantial support for at least a modest degree of redistribution in the United States dating back to the New Deal in the United States. *This passage, though, suggests that **any** degree of support for income redistribution is synonymous with socialism or communism and is outside of the mainstream of the American tradition. Surely, many Americans who support some form of income redistribution, which includes a significant percentage of Republicans, would object to the text’s implication that their views are more consistent with socialism or communism than with capitalism.*<sup>2</sup>

The textbook is not only unbalanced in its treatment of the free enterprise system overall, but in its specific discussion of taxation. The first paragraph of the textbook’s “Text” devoted to taxes states: “In the words of Oliver Wendell Holmes, Jr., taxes are ‘what we pay for civilized society.’ Society does not appear to be much more civilized today than it was when Justice Holmes made that observation in 1927. However, ‘what we pay’ has certainly gone up.” The text neglects to mention that defenders of increased taxation for an expanded safety net would respond that programs adopted since 1927 such as Social Security, Medicare, Medicaid, and the Affordable Care Act have produced such ‘civilized’ benefits as a drastic reduction of poverty and economic insecurity among the elderly, children, and the population at large, and improved and more equal access to health care.

This quote sets the stage for a general discussion of taxation that focuses on the costs of government programs with very little offsetting discussion of the benefits which these taxes provide. The inclusion of an ideologically slanted cartoon reflects the text’s overall treatment of taxation. In the cartoon an employer tells his employee: “Gibbs, I subtracted your federal, state and social security taxes and medical from your paycheck, and you owe the firm \$50.” The caption for the cartoon reads: “Taxes fund public programs and services, but some question the need for that spending and criticize the burden those taxes place on taxpayers. What comment does this cartoon make?” The text thus gives students the impression that Americans are very heavily taxed without placing this information in historical or cross-national context. For instance, the text could have mentioned that according to the Congressional Budget Office, in 2011 federal taxes as a percentage of the GDP were at their lowest rate since 1950. The text might also have mentioned that the United States has the lowest corporate tax burden of any member nation of the Organization for Economic Cooperation and Development (OECD). According to the Tax Policy Center of the Urban Institute, and Brookings Institution, U.S. taxes at all levels of government in 2008 claimed 26 percent of GDP, compared with an average of 35 percent of GDP for the 33 member countries of the OECD. The use of this cartoon is also unbalanced because the text provides no accompanying



cartoon suggesting that excessively low taxes might lead to economic insecurity and poverty or that is critical of the lack of an adequate safety net for low-income Americans.

A similarly vague statement that gives students the impression that Americans are overtaxed states: “The Federal Government collects huge sums to finance three major social welfare programs: (1) the Old-Age, Survivors, and Disability Insurance (OASDI) program – the basic Social Security program, established by the Social Security Act of 1935; (2) Medicare – healthcare for the elderly, added to the Social Security program in 1965; and (3) the unemployment compensation program – benefits paid to jobless workers, a program also established by the Social Security Act in 1935.” The claim that “huge sums” go to these programs is indeterminate. Are the sums “huge” as a percentage of the worker’s paycheck? Are they “huge” compared to what is paid for these services in other countries? Are they huge or disproportionate compared to the allegedly paltry benefits recipients reap from these programs? The use of the term “huge sums” is a judgment of the type of public school textbooks ought to strive to avoid.

By contrast, the coverage of economic issues in the Edmentum text was particularly commendable. The *Government and the Economy* section includes: (a) a discussion of regressive and progressive taxation that mentions that regressive taxes make “up a much smaller percentage of a wealthy person’s income”; (b) a treatment of free trade policy that highlights its advantages and disadvantages; (c) a video in the section’s middle that discusses the role of government investment in the development of crucial and beneficial technologies; and (d) a mention of John Maynard Keynes’s defense of deficit spending, which several other texts omit. The section also includes a timeline examining the recurrent surge and ebb in the growth of federal intervention in the economy throughout American history. The timeline discusses the advantages and disadvantages of Great Society programs and mentions government deregulation during the Carter and Reagan administrations as well as the later increasing regulation of the economy, such as Dodd-Frank Wall Street Reform and Consumer Protection Act in response to the 2008 recession.

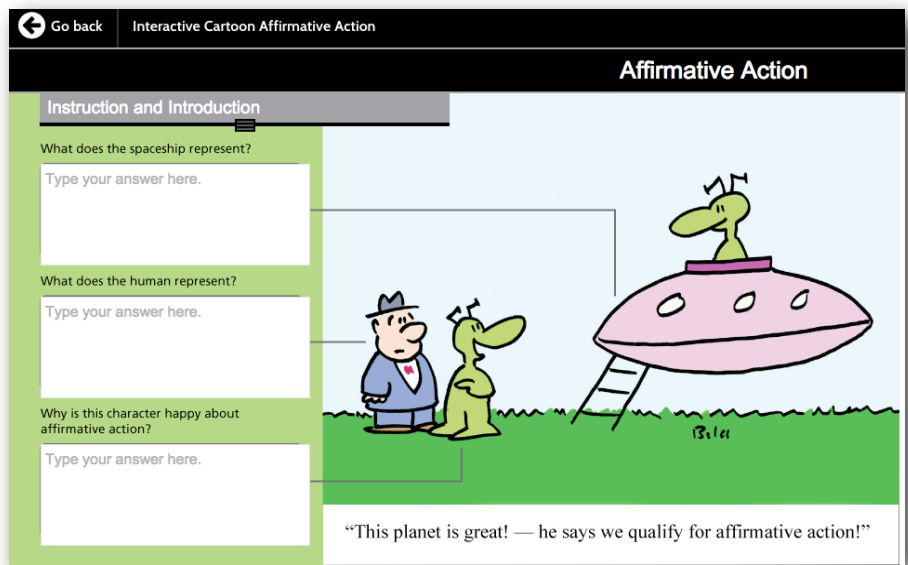


## The Pearson Textbook on Affirmative Action

This summary of review findings has noted several times that the Pearson textbook occasionally displayed a tendency to prioritize ideology above a balanced treatment of opposing ideas. This tendency unfortunately is as, if not more, pronounced in the text's treatment of affirmative action. *Indeed, the textbook's treatment of affirmative action verges on the offensive with its inclusion of two cartoons.* One cartoon depicts two extraterrestrials in a spaceship that has recently landed on Earth. Gesturing toward a man in a suit and tie, one alien says to the other: "This planet is great!—He says we qualify for affirmative action!" The other cartoon depicts two aliens in a spaceship approaching Earth. One alien says to the other: "Relax, we'll be fine. They've got affirmative action." The question in the caption at the bottom of the cartoon is: "How

is the cartoon suggesting that affirmative action would benefit the aliens?" By associating space aliens with beneficiaries of affirmative action, the cartoon seems to convey to students the implication that women and racial and ethnic minorities that receive affirmative action are somehow un-American or even perhaps less than fully human. The text does not have any counterbalancing cartoon that suggests to students possible reasons for supporting affirmative action.

The text also makes the ideological, unwarranted, and unsubstantiated prediction that "[i]t seems clear that the days of affirmative action programs are drawing to a close." The evidence the text provides to support this claim is inadequate and lopsided. The text rests its claim in part on a Supreme Court case striking down an affirmative action policy (*Ricci v. DeStefano*) that was decided by a 5-4 margin. This means, of course, that the replacement of just a single Supreme Court justice could lead to very different outcomes in future cases regarding affirmative action. In addition, the federal government and state governments continue to maintain and even expand various types of affirmative action programs. To use just one recent example, in July 2014 Virginia Governor Terry





McAuliffe signed an executive order designed to expand contracting opportunities to small, women-owned and minority-owned businesses. It is also at least plausible to predict that the increasing proportion of minorities in the nation at large and in individual states could lead to greater public pressure for the adoption or maintenance of affirmative action policies. On a related note, defenders of affirmative action would argue that recent bans on affirmative action provide reason for voters to affirm the continued relevance of these programs. The University of Michigan claims, for instance, that minority enrollment dropped 33 percent from 2006 to 2012 after Michigan voters adopted the Michigan Civil Rights Initiative (also known as Proposal 2) in 2006. *In light of the text's neglect to mention any evidence possibly contradicting its prediction, it is difficult not to suspect that this prediction, which has little pedagogical or descriptive value for students, is intended to persuade students about the illegitimacy of affirmative action.*

This suspicion receives further confirmation from the inclusion of a clickable box that identifies states that have banned affirmative action. The caption accompanying this chart reads: "Affirmative action has been attacked most often in education...Why might states believe that banning affirmative action is beneficial to them from an economic standpoint?" The text does not include a similar chart identifying the states that have maintained affirmative action policies or one encouraging students to consider the possible economic and non-economic benefits of maintaining or expanding affirmative action. In addition, the sole textbook review question on affirmative action in this section further encourages students to question or oppose affirmative action. The multiple-choice question asks: "The Supreme Court applies strict scrutiny to affirmative action quotas because . . ." The correct answer is that "quotas make it impossible to choose individuals on a case-by-case basis." The text provides no question suggesting why affirmative action programs might be consistent with the Constitution.





---

## Following are Prof. Lester’s fuller reviews of each of the seven proposed textbooks, listed below by publisher.

**PUBLISHER: Edmentum**

***I. During the debate over social studies curriculum standards in 2009-10, the State Board of Education sought to emphasize what they saw as important religious influences on the nation’s founding documents and the formation of American government. They went so far as to suggest, for example, that Moses was an important influence in the writing of the nation’s founding documents. Does the textbook exaggerate or inappropriately diminish the influence of religion and religious laws and ideals on the development of American government?***

***Unit 1: Foundations of U.S. Democracy*** includes a section entitled *The Development of U.S. Democracy*. The section examines the influence of a diverse range of sources and thinkers upon our form of government including the Magna Carta, the Enlightenment, John Locke, and Charles de Montesquieu. Neither the Bible nor Moses is mentioned in this section.

The section does mention, appropriately, that “even before landing in the New World, the Pilgrims signed the Mayflower Compact, agreeing to abide by laws that they would create themselves, establishing the concept of consent of the governed early in the colonial experience.” The text could have gone further and mentioned that many historians believe that the Great Awakening played a major role in inspiring the American Revolution. Still, the mention of the Pilgrims is sufficient to ensure that this section passes a Goldilocks principle by mentioning religion just enough but not too little or too much.

***II. During the debate over social studies curriculum standards in 2010, a majority of State Board of Education members refused to pass a requirement that students learn how the Constitution protects religious freedom by barring government from promoting one religion over all others. Supporters called the requirement important to teaching students about separation of church and state. But opponents said separation of church and state is not a constitutional principle. They succeeded in passing a requirement that students “compare and contrast” the phrase “separation of church and state” with the wording of the First Amendment. Does the textbook present separation of church and states as an important constitutional principle repeatedly upheld by the courts?***

The religious freedom clause of the First Amendment receives the following treatment in the section of ***Unit 1, The Foundations of U.S. Democracy*** entitled *The Constitution and the Bill of Rights*:

“The religious freedom clause of the First Amendment actually contains two pillars. It states ‘Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . .’ The first pillar prohibits the government from establishing an official religion. That means that the government cannot support one religious group over another. The second pillar prohibits the government from interfering with the ‘free exercise’ of religion. The government cannot make laws that prohibit or limit the practice or expression of religious beliefs. The Founders based the religion clause on the principle of separation of church and state, which holds that



government should not involve itself in religious matters. Despite the First Amendment, the government does involve itself in religion, though sometimes in subtle ways. For example, the government provides tax breaks for churches, works with religious charities, and appoints military chaplains to serve the religious needs of the US military forces.” The treatment of these clauses is accurate and attempts to capture some of the complex history relating to them. The discussion of the establishment clause perhaps could have mentioned that it often prohibits the government from preferring religious over non-religious viewpoints as well as prohibiting support of one religion over another. Still, the quote by Thomas Jefferson (engraved at the Jefferson Memorial) in the photo caption on this page mentions that “all men shall be free to profess, and by argument to maintain, their opinions in matters of religion,” which covers those who hold theistic and non-theistic beliefs.

**III. Does the textbook provide balanced discussions of issues involving the role of the courts? Do discussions about so-called “judicial activism” appear to support a particular political bias, or are they generally balanced and accurate in explaining competing opinions?**

Interpretation of the Constitution receives the following treatment in the section of **Unit 1, The Foundations of U.S. Democracy** entitled *The Constitution and the Bill of Rights*:

**“Living Document:** The amendment process gives rise to the understanding that the Constitution is a living document. Like a living organism, it can adapt to its surroundings. The idea of changing the Constitution always remains controversial, however, and the process is not undertaken lightly.

**Loose Constructionism and Originalism:** Interpreting the Constitution invites heated debate as well. Choosing to amend the Constitution or deciding whether it allows a certain branch or official to have certain powers brings up various viewpoints. These debates tend to find people in one of two camps: Those who interpret the Constitution broadly embrace the idea of ‘loose constructionism.’ Those who believe that the original intent or meaning of the Framers should guide the interpretation encourage a view called ‘originalism.’” The section’s description of loose constructionists here as interpreting the Constitution “broadly” is a bit vague. Still, the discussion is clearly balanced, even if it is perhaps too brief.

The section on *The Judicial Branch* in **Unit 2** expands on this discussion with several slides discussing judicial activism. The sample answer for the section’s question to students (“How does judicial activism compare to judicial restraint?”) could be phrased more neutrally and less opaquely. The text states: “The use of the word *activism* refers to the belief that the judges who behave in this manner are serving as activists who are pushing forward personal or political agendas.” The text could have more clearly stated that this “belief” tends to be held by *critics* of Supreme Court’s overturning of legislative and executive action rather than supporters. The section also suggests that judicial activism has often been associated with political liberalism and the expansion of civil rights.

At the same time, the text is careful to qualify this connection immediately with the following statement:

“Liberalism and conservatism, however, do not necessarily correlate with judicial activism and judicial restraint. In the late 1800s and early 1900s, for instance, the Supreme Court struck



down a number of liberal measures, including the income tax and the minimum wage. In this case, the judicial activism of the court favored political conservatives.”

In addition, the text concludes that “many of the most famous and controversial Supreme Court decisions . . . have been animated by a spirit of judicial activism” including *Marbury v. Madison* and *Brown v. Board of Education*. This association of judicial activism with decisions that liberals and conservatives admire suggests the positive contributions that a judicial activist approach might make to American democracy and cancels out the slight issue with the sample answer’s contrast of activism and restraint.

***IV. Concerns about federal-state roles and responsibilities were common throughout the debate over the new social studies curriculum standards in 2009-10. Does the textbook provide balanced discussions of the respective roles and responsibilities of national and state governments and conflict/disagreement (such as debates over “states’ rights”) over those roles today?***

The section *The Constitution and Bill of Rights* in **Unit 1** elegantly describes federalism as “a compromise between the centralism of the British system and the loose affiliation experienced under the Articles of Confederation.” This section’s discussion of the Constitution’s Supremacy Clause (Article VI, clause 2) notes that “in a conflict between national law and state law, national law remains superior to state law.”

The first paragraph of the section *Local, State, and National Government* in **Unit 2** states: “The framers believed that certain issues were best handled at the local level, while others should be the responsibility of the national government.” The remainder of the section is careful to note the enumerated and implied powers of the federal government, the reserved powers of the state governments and the Tenth Amendment, and concurrent powers.

The section uses the 1957 controversy over school desegregation in Little Rock as an example of the conflict between state and federal powers. Pairing this example in which the states’ rights side is clearly in the moral wrong with another example where the states’ rights side was shown in a more positive light would have provided additional balance. For instance, the text could have provided an example relating to the recent “new federalist” attempt to check expansion of the federal government’s interstate commerce powers.

Still, this problematic omission is isolated, and not serious enough in itself to warrant describing the text as biased. The text’s overall treatment of the federalism issue reflects sufficient, if not exceptional, balance.

***V. In its review of the Texas curriculum standards for U.S. History classes, the conservative Thomas B. Fordham Institute complained that “students are pressed to uncritically celebrate the ‘free enterprise system and its benefits.’ ‘Minimal government intrusion’ is hailed as key to the early nineteenth-century commercial boom—ignoring the critical role of the state and federal governments in internal improvements and economic expansion.” This theme was repeated in the debate over curriculum standards for U.S. Government. Some State Board of Education members emphasized the negative effects of government regulation and taxation on economic innovation and growth. Does the textbook provide balanced discussions of the effects of***



---

## ***government taxation and regulation on free enterprise and the economy generally?***

The section *Economic Principles and Policies* in **Unit 3** has a subsection entitled “The Mixed Market of the United States.” The subsection’s early part provides a balanced treatment of the elements in United States’ mixed economic system: “Although the United States primarily has a capitalist economy, the government exercises some regulation and economic involvement, including taxation.” The subsection’s concluding paragraph fairly assesses the advantages and disadvantages of this system: “In the United States, citizens and politicians continually debate the right balance between capitalism, innovation, and free markets on one hand, and social welfare, economic equality, and opportunity on the other. Capitalism can create huge amounts of wealth, but it can also leave millions in poverty with little hope of survival. The US government plays an important role in protecting Americans from the extreme risks of capitalism.”

The choice of the lesson activity for the section is questionable. The activity asks students to read and answer questions relating to a press release from the conservative Heritage Foundation. The release concerns the 2013 Economic Freedoms Index compiled by the Foundation and the Wall Street Journal. The release laments that the “substantial growth in the size and scope of government” in the U.S., according to the editors, contributed heavily to it losing its spot among the 10 freest economies, as well as its second-lowest score in the 20-year history of the Index.” The imbalance in the release, however, is outweighed by the textbook’s overall balance and the fact that it is in an activity rather than the text itself. The slight slant of this activity is the exception rather than the rule.

The Government and the Economy section of **Unit 4** further establishes the text’s accuracy and balance. The section includes: (a) a discussion of regressive and progressive taxation that mentions that regressive taxes make “up a much smaller percentage of a wealthy person’s income”; (b) a treatment of free trade policy that highlights its advantages and disadvantages; (c) a video in the section’s middle that discusses the role of government investment in the development of crucial and beneficial technologies; (d) a mention of John Maynard Keynes’s defense of deficit spending, which several other texts completely omit. The section also includes a timeline examining the recurrent surge and ebb in the growth of federal intervention throughout American history. The timeline discusses the advantages and disadvantages of Great Society programs, and mentions the deregulation of government during the Carter and Reagan administrations as well as the increasing regulation of the economy such as Dodd-Frank Wall Street Reform and Consumer Protection Act in response to the 2008 recession. The following passage, similar to several others in the section, indicates that the text clearly does not have a conservative economic ideological agenda: “Throughout US history, the federal government has had to adjust to a growing US economy and society. At times, the US economy has faced serious problems, forcing the federal government to make drastic economic changes to avoid a disaster or to fix a major economic inequality.”



**PUBLISHER: Houghton Mifflin Harcourt**

***I. During the debate over social studies curriculum standards in 2009-10, the State Board of Education sought to emphasize what they saw as important religious influences on the nation's founding documents and the formation of American government. They went so far as to suggest, for example, that Moses was an important influence in the writing of the nation's founding documents. Does the textbook exaggerate or inappropriately diminish the influence of religion and religious laws and ideals on the development of American government?***

A section on “Judeo-Christian Influences” on p. 36 reads: “The Framers’ political thinking was influenced by a Judeo-Christian religious heritage, which includes traditions common to both Judaism and Christianity. These religions see the law and individual rights as being of divine origin. Moreover, the Framers benefited from the Protestant Reformation, a sixteenth-century Christian reform movement whose leaders developed ideas about individual responsibility, the freedom to worship as one chooses, and self-government.”

The first and second sentences of this paragraph are simply too vague and indeterminate and are of almost no scholarly value. The text makes little attempt to substantiate and provide evidence for the claims made in these sentences.

The text claims that the “Judeo-Christian religious heritage” contributed to the Framers’ views of (a) law and (b) individual rights. Regarding (a), the text gives no example of a law or set of laws in the Bible that influenced the Founders, and no example of a Founder or a founding document that was influenced by the “Judeo-Christian” concept of law. This makes it impossible to evaluate the legitimacy of the text’s claim about law. By contrast, when the text discusses the influence of Charles de Montesquieu, John Locke, and William Blackstone on the Founders, it references particular works and ideas of these authors that influence the Founders. The claim that the Founders’ views on (b) individual rights were influenced by “Judeo-Christian” heritage seems to refer to the third sentence’s claims about the Reformation (although this is unclear). If so, this claim is on firmer footing. The Reformation did advance individual responsibility and had the effect of promoting freedom of worship both through its emphasis on individual conscience and through its breaking of the monopoly of the Catholic Church on European religious views. At least in spirit, the Reformation’s emphasis on individual conscience contributed significantly to ideas of self-government even if major Reformation figures were not supporters of self-government in practice.

At the same time, this claim omits several important pieces of information. First, major figures in the Protestant Reformation, including the New England Puritans, may have supported freedom of worship for their own views, but they did not support freedom of worship for many competing religious views. Similarly, the views of major Reformation figures including Martin Luther, John Calvin, and the American Puritans about self-government were far more limited than, and had very little in common with, the views of the American Founders about self-government. Once again, the brevity and opacity of the paragraph make its claims particularly difficult to evaluate. It is unclear what the passage means by “self-government” and whose views of “self-government” the passage is referring to.



Second, the paragraph could leave students with a misleading impression about the Founders' religious views. The passage's claims that Judaism and Christianity stresses that individual rights is of "divine origin" and that these views influenced all of the Founders suggest that all of the Founders believed that this biblical God was the source of natural rights. Many Founders did, of course, believe in the biblical God, but the religious beliefs of some were influenced by deism. The latter believed in a God that presided over nature, was known primarily through nature's works rather than biblical revelation, and whose attributes and features differed in crucial respects from the God depicted in the Bible. These Founders believed that "nature's God," not the biblical God, was the source of individual, natural rights. Finally, the paragraph's claim about the influence of the "Judeo-Christian" heritage on the Founders is not substantiated. The only specific influence on the Founders' thinking the text identifies is the Protestant Reformation, which has nothing to do with Judaism.

This raises a larger point concerning the text's use of the phrase "Judeo-Christian religious heritage." As a matter of scholarly accuracy, the term is problematic because the tremendous differences and history of sharp divisions between Judaism and Christianity perhaps outweigh the commonalities shared by the two religions. Furthermore, although the term may appear to connote an equal partnership, many Jews feel that the term is a form of verbal Potemkin village exaggerating the unity of Jewish and Christian views today. Often, the term is used to provide conservative Christian religious, moral and political views with the appearance of support from other religions when, in fact, the views associated with the term are far more widely held among conservative Christians than among Jews. Arguing that the Founders were influenced by a "Judeo-Christian heritage" is arguably a way that the State Board of Education and texts can assert a talking point prominent among and viewed favorably mainly by conservative Christians while appearing to be religiously tolerant.

***II. During the debate over social studies curriculum standards in 2010, a majority of State Board of Education members refused to pass a requirement that students learn how the Constitution protects religious freedom by barring government from promoting one religion over all others. Supporters called the requirement important to teaching students about separation of church and state. But opponents said separation of church and state is not a constitutional principle. They succeeded in passing a requirement that students "compare and contrast" the phrase "separation of church and state" with the wording of the First Amendment. Does the textbook present separation of church and states as an important constitutional principle repeatedly upheld by the courts?***

The text at p. 286 provides the following appropriately balanced statement regarding the establishment clause:

"The idea behind the establishment clause was famously expressed in 1802 by Thomas Jefferson, a firm defender of religious freedom. In a letter to a religious group in Connecticut, Jefferson wrote that 'religion is a matter which lies solely between Man and his God.' He then cited the establishment clause, which he said built 'a wall of separation between Church & State.' Jefferson's notion of the 'wall of separation' has become a common metaphor for the separation of church and state. But while the First Amendment limits government support of religion, there is much disagreement about just how separated church and state should be. As a result, the courts have faced difficult questions about the proper role of government in religion."



The above passage also includes a balanced use of examples concerning Supreme Court cases involving the affirmation and overturning of various state-sponsored practices relating to religion. A cartoon on the top of p. 288 depicts a government building and a church with a fence in between that has significant gaps between the slats of the letter of the word “separation.” The cartoonist’s implication is that the separation between church and state in the United States today is too porous. The text also mentions Thomas Jefferson’s “wall of separation” quote on p. 393, and pp. 393-395 provide a balanced discussion of Supreme Court jurisprudence in establishment and free exercise clause cases. All of this material indicates that the text’s treatment of the church-state relationship is balanced.

The text pays particular attention to religion and education issues on pp. 286-88, 295, 394, and 395. On pages 295 and 393 the text is appropriately careful in noting that while the Court has banned school-sanctioned prayer, the “Court has not banned private, voluntary school prayer. In fact, the Court requires high schools to allow students to form private religious groups if the school allows other groups not related to the curriculum—such as a chess club—to meet on school property . . . What the Court has prohibited are school-sponsored religious practices” (The quote is from p. 393).

The only exception to this balanced treatment concerns the “Real-World Example” box on p. 394. The box describes the case of three high schools in Round Rock, Texas, where a majority of students voted in 2007 to have public prayer at their graduation, and asks students to consider the legitimacy of these votes. The text should have mentioned that a federal district court ruled in 2008 that the votes were unconstitutional and that the votes conflicted with the Supreme Court’s decision in *Lee v. Weisman* (1992) that struck down prayers at school graduation ceremonies. The text’s otherwise evenhanded and careful treatment of the prayer in public schools issue, though, outweighs this oversight.

Finally, the text has either a typo or mistake in its description of the Supreme Court case *Wisconsin v. Yoder* on the bottom of p. 288. The Wisconsin law at issue in the case required school attendance until the age of 16, and not 17 as the text states.

***III. Does the textbook provide balanced discussions of issues involving the role of the courts? Do discussions about so-called “judicial activism” appear to support a particular political bias, or are they generally balanced and accurate in explaining competing opinions?***

The most extended discussion of judicial restraint and judicial activism occurs in a “Debating the Issue” exercise on p. 226. On first impression, the cartoon on the page seems to provide a one-sided critique of judicial activism and its liberal results. The cartoon depicts an elementary-age student reciting a parody of the Pledge of Allegiance. This parody includes the phrase: “one nation under dopey judicial activism, with liberty and justice for some.” The caption notes that “critics saw judicial activism behind a 2005 ruling by a federal district court judge said requiring public school students to recite the phrase ‘under God’ was an unconstitutional endorsement of religion.”

The text in this exercise is careful to note, though, that “the power of judicial review, the fundamental power of the judiciary, demands that judges be willing to overturn the acts of the legislative and executive branches – in other words, that they be judicial activists. The tension



between judicial restraint and judicial activism is built in to the fabric of judicial decision-making.” In addition, the “viewpoints” box in favor of judicial activism on this page states: “Moreover, it is through the intervention of activist judges that key rights have been secured and the interests of all Americans protected. If it had been left to democratically elected legislatures, segregation, for example, might still exist.” Finally, the textbook provides a balanced treatment of school prayer cases and the First Amendment on pp. 393-395. (See comments in Section II above.)

The inclusion of this material suggests that the text has no overall pattern or intent of bias on this issue and that any biased effect of the cartoon is likely to be limited. Finally, this cartoon may imply criticism of a liberal point of view, but as noted in section II above, p. 288 has a cartoon that implies criticism of a conservative point of view, the lack of sufficient respect for the separation of church and state. The use of cartoons in the text is not one-sided.

An overall pattern of balance on this issue is evident elsewhere in the text. Page 224 contains brief, straightforward definitions of judicial activism and restraint that do not favor either viewpoint or tie activism or restraint to conservative or liberal views.

Page 77 has a brief, evenhanded discussion of “loose” and “strict” constructionist approaches to the Constitution. Most notably, a discussion of the updating of Fourth Amendment search and seizure restrictions to our present technological circumstances notes: “It is up to courts to interpret the Fourth Amendment in light of changing conditions, and judges are beginning to apply the Constitution’s prohibitions to new technologies.” The passage implies that a literal reading of the Constitution is not sufficient to reach a conclusion in these cases and that some degree of judicial discretion is often inevitable and inescapable in matters of constitutional interpretation.

***IV. Concerns about federal-state roles and responsibilities were common throughout the debate over the new social studies curriculum standards in 2009-10. Does the textbook provide balanced discussions of the respective roles and responsibilities of national and state governments and conflict/disagreement (such as debates over “states’ rights”) over those roles today?***

The text’s treatment of the evolving relationship between federal and state governments is balanced. On p. 98, the text notes that the Framers believed in a limited federal government, but it notes that this preference was likely the result of historical context: “In 1787 the nation’s people were spread far apart, and its transportation and communications systems were far too primitive to make governing from a central location feasible.”

The text proceeds to a discussion of the evolution of the federal-state relationship on pp. 104-115. The text provides accurate and balanced treatments of the periods of dual federalism, nullification and secession, cooperative federalism, creative federalism, New Federalism and devolution, and fiscal federalism.

***V. In its review of the Texas curriculum standards for U.S. History classes, the conservative Thomas B. Fordham Institute complained that “students are pressed to uncritically celebrate the ‘free enterprise system and its benefits.’ ‘Minimal government intrusion’ is hailed as key to the early nineteenth-century commercial boom—ignoring the critical role of the state and federal governments in internal improvements and economic expansion.” This theme was repeated in***





***the debate over curriculum standards for U.S. Government. Some State Board of Education members emphasized the negative effects of government regulation and taxation on economic innovation and growth. Does the textbook provide balanced discussions of the effects of government taxation and regulation on free enterprise and the economy generally?***

The first passages on free enterprise in the text are not promising. The text notes at p. 25 that the “Founders believed that economic freedom allowed people to build wealth that would empower them to limit the power of government.” The passage also notes: “Like all freedoms, free enterprise is a matter of degrees. Over time the U.S. government has often intervened in the economy, for example, by creating consumer protection laws and agencies. Still, the U.S. economy holds true to the basic principles of the free-enterprise system.” These passages provide an insufficiently nuanced account of the Founders’ views. The text does not mention here, for instance, Alexander Hamilton’s belief that the national government ought to play a significant role in investing in and helping to expand the economy.

Yet this is not the final word on America’s economic history in the text. Hamilton’s support for a national bank is discussed on p. 105. More significantly, the text notes three periods of increasing support for governmental intervention in the economy and portrays them in a balanced light. The section on “Turn of the Century reforms” on p. 108 states: “Many laborers suffered from long workdays and dangerous working conditions. Powerful corporations developed great economic influence, often at the expense of working-class Americans. These issues grew so widespread that it became difficult to address them at the state level. The national government eventually stepped in, passing legislation to reform social conditions and business practices.” The section on the New Deal on p. 109 states: “In the 1930s an economic crisis led to another expansion of the authority of the national government.” A box titled “Profiles in Government” on Franklin Roosevelt on the same page notes criticisms of his programs at the time, but concludes: “Eventually, many New Deal reforms achieved widespread national acceptance.” The text describes the “Great Society program” as “a series of initiatives aimed at eliminating poverty and social inequality” on p. 109. The section notes that increased spending resulting from these programs “raised concerns about the power of the national government,” but it also notes that grants from federal government during this period “came with strings attached. If the national government thought that states were not fully cooperating, it would withhold funding. The threat of losing money was a powerful tool that spurred states into action against racial discrimination, hunger, unemployment, and pollution.”

The nuanced description of changing economic challenges and attitudes over American history in these passages balances out the insufficiently nuanced impression created by the passages on p. 25.

Even so, the inclusion of additional problematic material and omission of counterbalancing material elsewhere in the text *significantly qualify* our judgment that the text is overall sufficiently balanced and acceptable.

The top of pages 512 and 513 have brief definitions of capitalism and socialism. The p. 512 description of capitalism states that “capitalists generally believe that individual freedom, competition, and free trade will best lead to efficiency and economic growth.” The p. 513 description of socialism, which is accompanied by a photograph of Karl Marx describing him as “the



founder of modern socialism,” states: “Many socialists believe that government is responsible for the welfare of its citizens and should provide them with basic social services.” The definitions are misleading and leave a mistaken impression. Many Americans who believe that government should provide citizens with “basic social services,” a group that includes a significant percentage of Republicans, would describe themselves as believers in capitalism rather than socialism. Put differently, the term “basic social services” here is too broad and ambiguous. Some types of social services provided by government such as unemployment compensation or programs like Head Start are less extensive. These programs enjoy overall widespread, bipartisan approval in the United States. Characterizing support for these programs as socialist seems inappropriate. Other programs such as single-payer universal health care or the type of extended parental leave provided in Sweden are more extensive, and are more controversial in the United States. Characterizing support for these programs seems more appropriate. Unfortunately, the text does not make this kind of nuanced distinction.

Furthermore, to the extent that Democrats in the United States are *more* associated with the belief in government provision of basic social services, this passage could suggest to students that Democratic Party’s policies are synonymous or at least have much in common with socialist policies. Many Democrats would consider this an unfair and damaging insinuation.

On a related note, the text’s discussion of capitalism and socialism on pp. 508-513 is asymmetrical. A discussion of India on pages 508-509 notes that the switch from socialism to a free market economy in the 1970s led to rapid economic growth. In an assessment of the critiques and defenses of socialism on p. 513, the text notes that critics of socialism argue that “the economic controls of socialism discourage private economic development and innovation.” The following paragraph notes: “Defenders of socialism argue, however, that the inequalities of capitalism harm the greater good and that it is fairer to provide everyone with their basic needs.” The passages on capitalism by themselves are unobjectionable, but the text should have noted that defenders of socialist-leaning economics would reply that socialist policies can be consistent with economic growth. Several studies have shown, for instance, that labor productivity and per capita GDP in countries with much larger welfare states such as Norway and Sweden are roughly the same as labor productivity and GDP per capita in the United States.

The text’s treatment of the U.S. government intervention in the economy also omits important facts. The text does note on p. 511: “In reality, no country takes a truly laissez-faire approach to the economy. The U.S. government routinely acts to influence the economy and regulate markets.” The text then mentions the Federal Reserve, the Consumer Product Safety Commission, and Food and Drug Administration as examples of government regulation. The text could have noted, as several other texts did, that government not only plays and has played a crucial role in regulating the economy, but that many economists believe that government plays a crucial role promoting economic growth. The text neglects to mention government funding of funding of scientific research and important technological developments. Unlike several other texts, the text does not discuss the role government has played in stimulating the economy through deficit spending to combat or prevent economic recessions, and does not mention British economist John Maynard Keynes whose theories inspired this practice.



PUBLISHER: McGraw-Hill School Education

***I. During the debate over social studies curriculum standards in 2009-10, the State Board of Education sought to emphasize what they saw as important religious influences on the nation's founding documents and the formation of American government. They went so far as to suggest, for example, that Moses was an important influence in the writing of the nation's founding documents. Does the textbook exaggerate or inappropriately diminish the influence of religion and religious laws and ideals on the development of American government?***

The following passage appears at Chapter 2, Lesson 1, p. 2: "In the Old Testament, for example, Moses calls for the law to apply equally to all people, even kings, and sets forth rules for a fair trial. The biblical idea of a covenant, an ancient Jewish term meaning a special kind of agreement between people and God, influenced the formation of colonial governments and contributed to our constitutional structure.

Most of the early colonists were from England and considered themselves British. The English settlers formed thirteen colonies under charters from the King of England. Their ideas about the role and shape of government influenced the growth of the colonies, the American Revolution, and the system of government we have today."

The American Founders, of course, did believe in a social contract, but their version of the contract was derived primarily from modern British political thought, and John Locke's thought in particular. Locke's version of the social contract was a repudiation of the biblical covenant view referenced in this passage. The American Puritans had been the biblical covenant idea into practice in their various New England governments in the 17<sup>th</sup> century. The parties to the biblical covenant were God, the people, and the government. The purpose of government in this conception was to help its members live according to God's will. By contrast, the Lockean social contract was only a voluntary agreement between the people and their government. The main purpose of government in this conception of the contract was to secure important natural rights belonging to the individual. As Locke makes clear in his **A Letter Concerning Toleration**, which deeply influenced the Founding generation, the people cannot delegate the power over religious matters to government even if they want to because the right to religious conscience is inalienable. Locke's **Letter** confines government action to civil interests and argues that governments cannot prohibit actions when the only objection to these actions is that they cause a spiritual harm. (The text discusses Locke at Ch. 2, Lesson 4, p. 4, but does not mention the crucial differences between the Lockean social contract and the biblical idea of the Covenant.)

*The passage thus provides the student with more or less the opposite of the historical truth. Rather than being influenced by the Biblical idea of the covenant, it is more accurate to describe the Founders' views on the social contract as a response to and rejection of this idea.*

Chapter 13, Lesson 1, Page 2 reads: "The Ten Commandments were one of the sources of law for the ancient Israelites. According to the Hebrew Bible, Moses received these commandments from God on Mount Sinai. The Ten Commandments' emphasis on social justice and individual and communal responsibility has become a model for ethical laws. These ideals have been adopted in the United States and much of the world."



This is less egregious than the previous example but problematic because of context. The discussion comes in the context of influences on American law. The discussion of the other influences on law including Babylonian, Roman, and English common law are all purely descriptive. Only the discussion of the Ten Commandments receives praise (“model for ethical laws.”) In addition, the claim that “these ideals” have become a model for ethical laws in “much of the world” is a bit of an exaggeration as, say, the ethical traditions of China and India were not influenced by the Ten Commandments.

***II. During the debate over social studies curriculum standards in 2010, a majority of State Board of Education members refused to pass a requirement that students learn how the Constitution protects religious freedom by barring government from promoting one religion over all others. Supporters called the requirement important to teaching students about separation of church and state. But opponents said separation of church and state is not a constitutional principle. They succeeded in passing a requirement that students “compare and contrast” the phrase “separation of church and state” with the wording of the First Amendment. Does the textbook present separation of church and states as an important constitutional principle repeatedly upheld by the courts?***

Chapter 15, Lesson 3, p. 3 reads: “Thomas Jefferson once referred to the establishment clause as a ‘wall of separation between church and state.’ That phrase is not used in the Constitution, however.” The statement, of course, is factually correct, but it gives the inaccurate impression that Jefferson’s view was personal and lacked significant connection to the First Amendment. The passage, for instance, neglects to mention the significant affinity between the views of Jefferson and James Madison. They fought vigorously alongside each other in Virginia in the 1780s for the recognition of freedom of conscience as a “natural and absolute right.” (The phrase is from Madison’s autobiographical essay.) This is a notable omission because although Madison did not draft the First Amendment alone, his impact on the drafting and enactment process was greater than that of any other Founder.

Thus, although Jefferson may not have been directly involved in the drafting of the First Amendment, the views he espoused in his famous letter to the Danbury Baptist Association were shared to a significant degree by crucial figures who were directly involved in the drafting process. This passage’s unbalanced treatment of Jefferson’s famous quote is disturbingly consistent with the State Board of Education’s requirement to have students “compare and contrast” the “separation of church and state” with the wording of the First Amendment.

***III. Does the textbook provide balanced discussions of issues involving the role of the courts? Do discussions about so-called “judicial activism” appear to support a particular political bias, or are they generally balanced and accurate in explaining competing opinions?***

Chapter 14, where this issue is most directly addressed, confines itself to a technical discussion of constitutional interpretation focusing on how the Supreme Court selects cases. There is no use of the terms “judicial activism” or “judicial restraint.”

***IV. Concerns about federal-state roles and responsibilities were common throughout the debate over the new social studies curriculum standards in 2009-10. Does the textbook provide balanced discussions of the respective roles and responsibilities of national and state***



---

***governments and conflict/disagreement (such as debates over “states’ rights”) over those roles today?***

The bias toward federalism and states’ right is not extreme or explicit, but the discussion does give the impression at times of being tilted in favor of federalism through omission. For instance, Ch. 4, Lesson 4, p. 5, asks students to consider a “guiding question”: “Why does federalism increase opportunities for political participation?” The question then claims: “Federalism increases opportunities for American citizens to participate in politics. A citizen can choose to run for local office, to lobby the state government, or to campaign for a candidate for national office.” By itself, this argument is unobjectionable. However, the text has no accompanying mention of the possible drawbacks of federalism, and the text has no “guiding question” addressing the value of enhanced federal power.

Furthermore, Ch. 4, Lesson 1, p. 2, cites Alexander Hamilton’s approval of federalism in Federalist Paper, no. 9. The passage gives a lopsided impression of Hamilton, who perhaps more than any other leader of the Founding period supported enhanced federal government participation in the economy and practiced what he preached as Secretary of Treasury. It is also odd that while the adoption of the Fourteenth Amendment is mentioned elsewhere in the text, the publisher did not believe that mentioning the way that the Amendment and the Civil War changed national-state relations was germane in this chapter. Unlike other texts, this text provides very little discussion of the historical development of the relationship between the federal and state governments. Since the federal government’s power has expanded significantly over American history, omitting much of this history means students are not taught about the crises that led to this expansion and the ways that expanded federal power may have helped to resolve them. If students do not know why the federal government acquired its expanded powers historically, they may not be able to evaluate effectively why and whether the federal government should possess these expanded powers today.

***V. In its review of the Texas curriculum standards for U.S. History classes, the conservative Thomas B. Fordham Institute complained that “students are pressed to uncritically celebrate the ‘free enterprise system and its benefits.’ ‘Minimal government intrusion’ is hailed as key to the early nineteenth-century commercial boom—ignoring the critical role of the state and federal governments in internal improvements and economic expansion.” This theme was repeated in the debate over curriculum standards for U.S. Government. Some State Board of Education members emphasized the negative effects of government regulation and taxation on economic innovation and growth. Does the textbook provide balanced discussions of the effects of government taxation and regulation on free enterprise and the economy generally?***

The overall treatment of this issue by the textbook is balanced. Ch. 22, Lesson 3, p. 9, for instance, mentions the role that the federal government has played in funding scientific research. Ch. 22, Lesson 1, p. 2, acknowledges (as does Ch. 24, Lesson 3, p. 2) that the United States has a “mixed economy,” and the rest of the lesson provides balanced discussion of the government’s role in consumer protection, the SEC, and promoting and overseeing labor unions.

One passage does stand out as problematic, although its deficiencies are not sufficient to outweigh the text’s overall balanced treatment on this issue. Ch. 22, Lesson 3, p. 3, states: “Many experts are worried about the ability of the Social Security system to stay afloat financially – the



number of workers who are retiring is putting a strain on the capacity of the system to pay out benefits. Unless it is changed, the system will probably run out of money at some point. Congress passed a law in 1983 that gradually raised the retirement age to 67 by the year 2027. Many other solutions have been proposed as well, including privatizing the system (allowing people to invest the contributions they would have made to Social Security into stocks and bonds instead). Other proposals are to reduce benefits, raise the retirement age, or require people to increase their contributions.)” The passage fails to note that many other experts believe that fears about the long-term solvency of Social Security are exaggerated and question the urgency of the need for immediate action to address this solvency. The passage does not balance a discussion of Social Security’s solvency with a discussion of the possible disadvantages of providing private retirement accounts. Finally, the passage could have mentioned more specifically that raising the cap on the payroll tax to increase the amount paid by those who earn higher incomes is another possible way to address solvency. Some opinion surveys have found that a majority of Americans and even a majority of Republicans supporting this measure.

### ***Other Issues: Treatment of Brown v. Board of Education***

The text’s case study of Brown v. Board of Education at the end of Ch. 14 has two highly unfortunate features. The case study includes the following passage: “Under segregation, all-white and all-African American schools sometimes had similar buildings, buses, and teachers. Sometimes, however, the buildings, buses, and teachers for the all-black schools were lower in quality. Often, African American children had to travel far to get to their school.” The case study severely understates the tremendous and widespread disadvantages of African-American schools compared to white schools, and the limitations placed on educational opportunities for blacks in general during the Jim Crow period.

The text’s assignment that students “read each argument and categorize each based on whether it supports Brown’s side against segregation or the Board of Education of Topeka’s position in favor of segregation” might give students the impression that there are valid arguments on both sides of this issue. The approach is acceptable for a live controversy like gay marriage. (See, for instance, Ch. 4’s discussion of U.S. v. Windsor.) Brown, though, was decided unanimously and is certainly not the subject of a live controversy today. (The text does mention at Ch. 15, Lesson 5, p. 3 that Brown was decided unanimously, and that segregation violates the Constitution.)



**PUBLISHER: Pearson Education**

***I. During the debate over social studies curriculum standards in 2009-10, the State Board of Education sought to emphasize what they saw as important religious influences on the nation's founding documents and the formation of American government. They went so far as to suggest, for example, that Moses was an important influence in the writing of the nation's founding documents. Does the textbook exaggerate or inappropriately diminish the influence of religion and religious laws and ideals on the development of American government?***

The textbook's treatment of the influence of religion on the Founders reflects a pattern of vagueness and ambiguity. This vagueness often leaves the claims made in the text unsubstantiated and difficult to evaluate. These features are evident for instance in the treatment of the roots of democracy at Topic 1, Lesson 3, Text 1, p. 2, which reads: "The roots of democratic government in today's world – including government in the United States – lie deep in human history. They reach back most particularly to ancient Greece and Rome, and include elements related to Judeo-Christian philosophy, dating back thousands of years to Old Testament texts and Biblical figures such as Moses and Solomon."

The New Testament has nothing explicitly to say about political institutions besides St. Paul's statement in his Epistle to the Romans, Ch. 13: "Let every person be subject to the governing authorities." St. Paul does not distinguish in this chapter between obedience to democracies and obedience to other forms of government. The forms of government mentioned in the Old Testament are theocracy and monarchy. Prominent figures in the Old Testament are occasionally critical of monarchy including the prophet Samuel and Gideon, or of the behavior of particular kings as in the case of prophet Nathan's criticism of King David. The Israelites also sometimes placed limits on their kings' sovereignty (see, for instance, 1 Kings 12). Still, those critical of monarchy or monarchs did not advocate democracy as an alternative, and the limited monarchy occasionally practiced in ancient Israel seems to bear little resemblance to American democracy. Even if it is accurate that government in the Old Testament had democratic features, the text never tells us how these democratic features directly influenced the Founders. It is similarly difficult to make sense of the text's claim that Moses or Solomon governed in a democratic way. Since the text here does not provide additional elaboration of its claims about Moses or Solomon or the roots of democracy in "Judeo-Christian philosophy," it is impossible to assess these claims. In addition to being overly vague, the text is unbalanced. If the text is going to mention the roots of democracy in Judaism and Christianity, it also needed to mention that there was much in the theory of and practice of biblical and historical Christianity that is contrary to democracy.

Even more problematic perhaps is the "Biography of Moses" that the text provides students, which reads: "Moses was a lawgiver and a great leader. Like the founders of the United States, he helped establish a legal system to govern his people. The Ten Commandments have been a guide and basis for many legal and moral systems throughout the world." The annotation to the biography states: "Moses helped establish a legal system, including the Ten Commandments, to govern his people. Similarly, the founders of the United States wrote the Constitution and established a system of laws to govern Americans. They were also part of a tradition that was familiar with the Ten Commandments as a guide for moral behavior."



The passage gives an exaggerated impression to students about the influence of and relationship between Moses and the Founders. The legal system that Moses founded had theocratic elements, which made it very different from the republican system of law the Founders created and found in the Constitution. There is little evidence that the Founders were strongly or directly influenced by Moses or the legal system he established. Moses, for instance, is not mentioned at all in the Federalist Papers. Similarly, the text neglects to mention that the Founders were reacting against elements of the moral, legal, and political tradition associated with Moses and the Ten Commandments. The American Puritans clearly did try to pattern their government directly on the model attributed to Moses, and several key Founders rejected the theocratic elements in Puritan politics and morality. If the text is going to discuss Moses' influence on the Founders, then it also needed for the sake of balance sake to discuss how the Founders rejected elements of this tradition.

Vagueness and lack of balance, albeit to a lesser extent, is evident in the following passage at Topic 2, Lesson 1, Text 1, p. 3: "King Hammurabi of Babylonia, for example, developed a system of laws known as Hammurabi's Code around 1750 B.C. Jewish legal concepts relating to individual worth, fair trial, and the rule of law were detailed in the Hebrew Bible. The English were quite familiar with and devoutly attracted to the biblical concept of the rule of law, the idea that government is always subject to, never above, the law." This is not as problematic as the passage above but perhaps exaggerates the influence of the Bible on the English conception of limited government that in turn influenced our Founders. As the textbook acknowledges elsewhere, John Locke's conception of the social contract was the strongest English influence on the Founders. In debates over limited government during John Locke's time, though, defenders of absolute government and divine right like Robert Filmer relied just as much, if not more heavily, on the Bible than Locke did. Locke's conception of the natural law that is the source of our rights has similarities to, but also crucial differences from, form and types of law in the Hebrew Bible. In particular, Locke believed that government must confine itself to a concern with the civil and secular welfare of its citizens and could not make laws governing citizens' spiritual welfare. The text's emphasis on the influence of the Bible on the English political tradition that influenced the Founders while neglecting to mention the way that the English conception of limited government departed from the biblical tradition is unbalanced.

Finally, the text on three separate occasions notes that the Founders in the Declaration of Independence and elsewhere declared that liberty and individual rights were God-given. The passages are: (1) Topic 2, Lesson 2, topic 5, p. 6: "The Declaration was also revolutionary because it was founded on the concept of 'the consent of the governed,' rather than divine right or tradition as the basis for the exercise of power. Central to this concept was the notion that 'the Laws of nature and of nature's God' entitle people to certain rights. Governments exist only to serve the will of the people." (2) Topic 1, Lesson 1 Text 3, p. 5: "In the Declaration of Independence, Jefferson also included justification based on the 'laws of nature and nature's God,' meaning that the colonists' right to have an equal voice in their government was given by nature and could not be taken away by the king." (3) Topic 1, Lesson 1, Text 4, p. 6 "This nation was founded by those who loved liberty and prized it above all earthly possessions. They believed with Thomas Jefferson that 'the God who gave us life gave us liberty at the same time.'"

Letting students know that the Founders believed liberty is God-given is important, accurate, and fair. However, the text could also have mentioned the diversity of views about the





nature of God among the Founders. Many Founders were devout Christians who believed that God in these passages referred to the God of the Old and New Testament. Others, including Jefferson, were influenced by deism, rejected important claims about the attributes of God in the Old and New Testament, and believed in a God that primarily ruled over nature (“nature’s God”).

***II. During the debate over social studies curriculum standards in 2010, a majority of State Board of Education members refused to pass a requirement that students learn how the Constitution protects religious freedom by barring government from promoting one religion over all others. Supporters called the requirement important to teaching students about separation of church and state. But opponents said separation of church and state is not a constitutional principle. They succeeded in passing a requirement that students “compare and contrast” the phrase “separation of church and state” with the wording of the First Amendment. Does the textbook present separation of church and states as an important constitutional principle repeatedly upheld by the courts?***

The text has a problematic discussion of school prayer at Topic 8, Lesson 1, Text 3, p. 8: “The guarantee of the separation of church and state found in the 1st Amendment's Establishment Clause is another area in which the process of incorporation has had an impact on federalism. Prayer, or even a moment of silence, in public schools has been deemed a violation of the 1st Amendment. Thus, the Federal Government has outlawed a practice despite the fact that wide support for that practice can be found in many communities.” The text is accompanied by a clickable chart on the same page that examines public approval and disapproval of the Supreme Court’s school prayer decisions. This particular discussion of school prayer is unbalanced because it mentions a disadvantage of the prayer cases but does not mention the advantages of the decisions emphasized by its defenders.

However, this is not the only discussion of school prayer in the text, and the next lesson (Topic 8, Lesson 2, Text 2, pp. 8-9) contains a more balanced assessment of the issue. This assessment mentions the several cases following *Engel v. Vitale* in which the Supreme Court struck down proposed public school prayers and includes the following passage (p. 9): “[S]upporters of these rulings maintain that they are necessary to uphold the separation of church and state guaranteed by the Establishment Clause.” Topic 8, Lesson 2 also has an extended and even-handed discussion of *Engel v. Vitale* in a section entitled “Landmark Supreme Court Cases.” The section the text devotes to aid to parochial school at Topic 8, Lesson 2, Text 2, p. 2, has a significant omission. In listing the arguments against such aid, the text could have mentioned that parochial school aid uses money from taxpayers who profess no religion or religious traditions without a significant number of religious schools to support sectarian religious institutions. This is one of the strongest arguments against such aid. Still, the passage on p. 5 discusses the school voucher program at issue in the *Zelman v. Simmons* Supreme Court cases, and here the text acknowledges a related point that almost all students in that program used vouchers to attend religious schools.

The text states at Topic 8, Lesson 2, Text 1, p. 3: “The Establishment Clause sets up, in Thomas Jefferson’s words, ‘a wall of separation between church and state.’ That wall is not infinitely high, however, and it is not impenetrable. Church and government are constitutionally separated in this country, but they are neither enemies nor even strangers to one another. Government has done much to encourage churches and religion in the United States. Nearly all



property of and contributions to religious sects are free from federal, state, and local taxation. Chaplains serve with each branch of the armed forces. Most public officials take an oath of office in the name of God. Sessions of Congress, most State legislatures, and many city councils open with prayer. The nation's anthem and its coins and currency make reference to God."

The text could perhaps have mentioned here the sympathy for Jefferson's position among key Founders such as James Madison and prominent Supreme Court justices. However, the text does begin Lesson 2's discussion (Topic 8, Text 1, p. 1) with a discussion of Alexis de Tocqueville's discovery of the "American principle of separation of church and state." This lesson also mentions that Thomas Jefferson's Virginia Statute of Religious Freedom was a reaction to the problems of established churches. Jefferson's Statute is included as a "primary source" for this lesson.

In weighing the overall balance of the text, it is also worth noting that the text encourages students to consider the importance of religious tolerance and the situation of vulnerable religious minorities today. At Topic 8, Lesson 1, Text 2, p. 5, the text asks students to consider the following analogy: "The current war on terrorism has created a political climate similar to that of the early days of World War II. Did the mistreatment of Japanese Americans then provide a lesson for today? Will the rights of Muslims and others of Middle Eastern descent continue to be respected by government as it fights terrorism here and abroad?"

The text makes two mistakes in its sections devoted to the church-state relationship. The photo caption of Congressman Keith Ellison at Topic 8, Lesson 2, text 1, p. 4, mistakenly identifies him as "D-Mich." Rep. Ellison's district is in Minnesota. At Topic 8, Lesson 2, "Interactive Chart: The Establishment Clause, the Supreme Court decision upholding prayer in legislation sessions is misspelled "March" v. Chambers; the case is Marsh v. Chambers.

***III. Does the textbook provide balanced discussions of issues involving the role of the courts? Do discussions about so-called "judicial activism" appear to support a particular political bias, or are they generally balanced and accurate in explaining competing opinions?***

Topic 7, Lesson 1, Text 5, p.5 reads: "The proponents of judicial restraint believe that judges should decide cases on the basis of (1) the original intent of the Framers or those who enacted the statute(s) involved in a case, and (2) precedent—a judicial decision that serves as a guide for settling later cases of a similar nature. They say that the courts should defer to policy judgments made in the legislative and executive branches of the government and, in so doing, honor the basic premise of self-government: the right of the majority to determine public policy.

Those who support judicial activism take a much broader view of judicial power. They argue that provisions in the Constitution and in statute law should be interpreted and applied in the light of ongoing changes in conditions and values – especially in cases involving civil rights and social welfare issues. They, too, insist on the fundamental importance of majority rule and the value of precedents, but they believe that the courts should not be overly deferential to existing legal principles or to the judgments of elected officials."

The passage is not sufficiently nuanced in that it neglects to mention that original intent can conflict with precedents, and thus that justices following original intent will not always uphold precedent. More crucially, judicial reliance on original intent can often lead to an overturning



rather than affirmation of “the right of the majority to determine public policy.” In recent years, conservative justices preaching judicial restraint and critical of judicial activism have succeeded in or sought to strike down campaign finance laws (*Citizens United v. FEC* decision), health care reform (*National Federation of Independent Business v. Sebelius*), and crucial sections of the 1965 Voting Rights Act (*Shelby County v. Holder*) that Congress enacted. Conversely, justices who have eschewed primarily reliance on original intent have been more likely recently to uphold Congressional legislation in cases related to federal regulation of interstate commerce than justices who rely more heavily on original intent.

This last point is related to another significant problem with these definitions of judicial restraint and activism. By associating judicial activism with “civil rights and social welfare issues,” the passage clearly implies to students that judicial activism is preached and practiced by liberals. Many esteemed constitutional scholars, however, would argue that conservatives who urge the striking down of Congressional laws regulating interstate commerce or campaign finance laws, for instance, subscribe to a form of judicial activism.

Other textbooks acknowledge this diversity of opinion among constitutional scholars and warn students against a possibly overly simplistic connection between judicial restraint and conservative ideology on the one hand, and judicial activism and liberal ideology on the other. These texts also included examples of decisions made by a majority of conservative Supreme Court justices such as *Bush v. Gore* that might be considered instances of judicial activism.

***IV. Concerns about federal-state roles and responsibilities were common throughout the debate over the new social studies curriculum standards in 2009-10. Does the textbook provide balanced discussions of the respective roles and responsibilities of national and state governments and conflict/disagreement (such as debates over “states’ rights”) over those roles today?***

Topic 3, Lesson 4, Text 3, p. 4, has the following discussion of federal grants-in-aid: “In effect, grants-in-aid blur the division-of-powers line in the federal system. They make it possible for the Federal Government to operate in many policy areas in which it would otherwise have no constitutional authority – for example, in such fields as education, low-income housing, local law enforcement, and mental health. Critics of grants-in-aid have long made this point. They also argue that the grants, which usually come with strings attached, often give Washington a major – and, they say, an unwarranted—voice in the making of public policy at the State and local levels.” The mention here of possible constitutional problems with grants-in-aid is not balanced by a discussion of the possible advantages of grants-in-aid that its defenders might advance.

Another passage on federalism at Topic 3, Lesson 3, text 2, has two pages (pp. 3-4) devoted to the “strengths of federalism.” The only downside of federalism noted on p. 5 is the following: “However, a disadvantage of federalism is the redundancy that can occur due to overlapping jurisdictions, as evidenced by the handling of Hurricane Katrina. In this instance, the National Government's efforts and the State's efforts were not coordinated.” The discussion of advantages is thus significantly greater than the discussion of disadvantages. Furthermore, the only disadvantage mentioned focuses on failures of effective federal-state coordination and does not note possible flaws with giving states too much power and the federal government too little power.



Still, these unbalanced passages are not sufficient in themselves to make the text's overall treatment biased. The text includes other passages that note the occasional need of federal power to supersede state power. Thus, the text at Topic 3, Lesson 4, Text 1, p. 6, mentions that both Presidents Eisenhower and Kennedy used the National Guard to insure compliance with federal court decisions and laws requiring racial integration.

The text at Topic 3, Lesson 3, Text 7, p. 2 also notes the threat to the social order that excessive challenges to national supremacy can produce: "Our political history is studded with challenges to the concept of national supremacy. Recall that this nation fought a horrific Civil War over that very matter in the years 1861 to 1865. Those who have rejected the concept of national supremacy have insisted that the Constitution is, at base, a compact among sovereign States, rather than one between and among 'We the People of the United States.' They believe that the powers that compact does give to the National Government are to be very narrowly defined and applied. Echoes of that view can still be found in contemporary American politics." Linking the "compact" view in the past and today to the "horrific Civil War" implicitly acknowledges the disadvantages of extreme versions of the defense of states' rights.

***V. In its review of the Texas curriculum standards for U.S. History classes, the conservative Thomas B. Fordham Institute complained that "students are pressed to uncritically celebrate the 'free enterprise system and its benefits.' 'Minimal government intrusion' is hailed as key to the early nineteenth-century commercial boom—ignoring the critical role of the state and federal governments in internal improvements and economic expansion." This theme was repeated in the debate over curriculum standards for U.S. Government. Some State Board of Education members emphasized the negative effects of government regulation and taxation on economic innovation and growth. Does the textbook provide balanced discussions of the effects of government taxation and regulation on free enterprise and the economy generally?***

The text includes strongly positive assessments of the "free enterprise system" in several places. Topic 12, Lesson 1, Text 2, p. 4, reads: "The atmosphere of a free market, as well as a free society that encourages the exchange of ideas, can and often does lead to innovation and scientific and technological discoveries. All these conditions promote growth in the economy and often improve the quality of everyday life. That is not necessarily true in other economic systems. In some countries, government planners decide what will be produced and how it will be made."

Several other passages link the free enterprise system with the American commitment to individual liberty including (1) Topic 1, Lesson 4, text 3, p. 1: "The American commitment to freedom for the individual is deep-rooted, and it is as evident in the nation's economic system as it is in the political system. The American economic system is often called the free enterprise system," and (2) Topic 1, Lesson 4, Text 3, p. 2: "Democracy and the free enterprise system are not the same thing. One is a political system, and the other is an economic system. However, both are firmly based on the concept of individual freedom. America's experience with both systems clearly suggests that the two reinforce one another in practice."

The text also has a largely approving discussion of laissez faire economic theory at Topic 12, Lesson 1, Text 2, p. 11: "Laissez-faire theory holds that government should play only a very limited, hands off role in society, confined to: (1) foreign relations and national defense, (2) the maintenance of police and courts to protect private property and the health, safety, and morals of



the people, and (3) those few other functions that cannot be performed by private enterprise at a profit. The proper role of government in economic affairs should be restricted to functions intended to promote and protect the free play of competition and the operation of the laws of supply and demand. True laissez-faire capitalism has never in fact operated in this country, yet it has a profound effect on the structure of the nation's economic system, which can be described as laissez-faire capitalism with limited government involvement.”

Mentioning the advantages of the free enterprise system is entirely appropriate. However, the text’s treatment of the free enterprise system is unbalanced and asymmetrical because the text provides little mention of the possible limits and disadvantages of a free enterprise and laissez-faire system. The discussion of the free enterprise system only notes that government regulated monopolies in the late 19th and early 20th century to insure free and fair competition. Students are given little awareness here that critics of a laissez-faire system both in the U.S. today and the past have argued that an unfettered market can and has led to economic insecurity and inequality, unfair pay and unsafe labor conditions for many employees. Similarly, it is absolutely fair to mention ways that free enterprise system may be consistent with the American tradition of individual liberty. The text, though, neglects to mention that critics of a pure free enterprise system would argue it may limit economic freedom by interfering with equality of opportunity of working class Americans and the bargaining rights of employees. The text could also have mentioned that a free enterprise system with heavy income inequality might interfere with political freedom by providing unequal political access to the affluent and ignoring the concerns of those who are not affluent.

These passages also provide an unbalanced and possibly misleading description of the American economic system. By tying the American tradition so tightly to the free enterprise system, they imply that departures from the free enterprise system are incompatible with the American tradition. This implication is, in fact, made explicit in the following passage at Topic 12, Lesson 1, Text 4, p. 1: “In the United States all people are entitled to equal protection under the law. Political equality, of course, is not the same as economic equality. The capitalist system of the United States enables some to achieve greater financial rewards than others. However, other economic systems – socialism and communism – do seek to distribute wealth more evenly across the society.”

There are varying types and degrees of income redistribution and support for redistribution, of course. Support for a modest degree of income redistribution is arguably consistent with support for capitalism and the free enterprise system, and there is a long tradition of substantial support for at least a modest degree of redistribution dating back to the New Deal in the United States. This passage, though, suggests that any degree of support for income redistribution is tantamount to socialism or communism, and outside of the mainstream of the American tradition. Surely, the many Americans who support some form of income redistribution, including a significant percentage of Republicans, would object to the text’s implication that their views are more consistent with socialism or communism. (One recent survey found that 52 percent believe that “our government should redistribute wealth by heavy taxes on the rich.” See Page, Bartels, and Seawright, *Democracy and the Policy Preferences of Wealthy Americans*, 2013.)

On a related note, the text provides an unbalanced assessment of Western European socialist systems that have a greater degree of government regulation of the economy and



redistribution of income than the United States. These passages include Topic 12, Lesson 1, Text 7, p. 1: “Critics argue that the many layers of bureaucracy in socialist countries complicate decision making and have a depressing effect on individual initiative. As a result, these command economies, unlike free enterprise systems such as that of the United States, are slow to take advantage of new technologies. In addition, many say, the smooth running of an economy is too complex to be directed by central planners,” and (2) Topic 12, Lesson 1, Text 4, p. 4: “Gradually, however, most socialist parties in Europe have given up such traditional goals as nationalizing industries. And many socialist parties in Britain, France, and Germany have lost power or have abandoned some of their socialist objectives that have become too expensive and unpopular to maintain.”

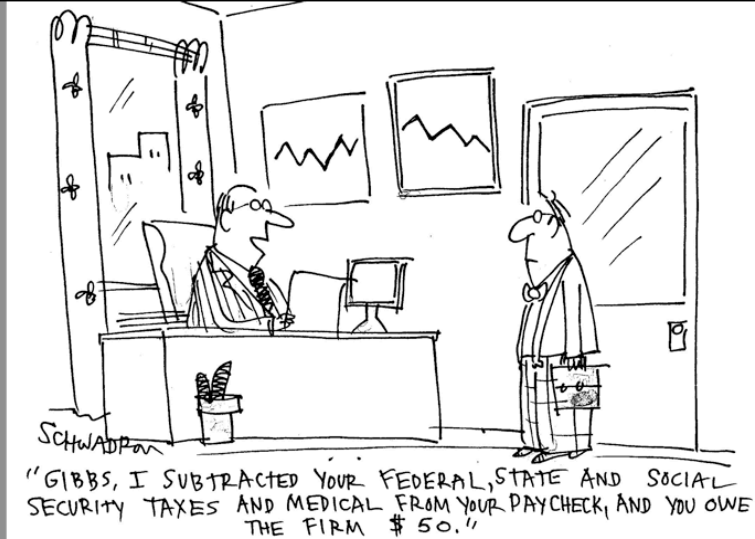
The text’s mention of the downsides of these socialist systems is appropriate. However, the text neglects to mention that supporters of these systems could argue that GDP per capita and labor productivity in countries with significantly more income redistribution such as Norway or Sweden are on par or close to on par with GDP per capita and labor productivity in the United States. The text could also have mentioned that defenders of these systems would argue that the United States has a greater degree of income inequality and economic unfairness than these countries do.

The text is not only unbalanced in its treatment of capitalism and socialism overall, but also in its treatment of specific aspects of our economic system. The first paragraph of Topic 12, lesson 3, Text 2, p. 1, makes the following statement: “In the words of Oliver Wendell Holmes, Jr., taxes are ‘what we pay for civilized society.’ Society does not appear to be much more civilized today than it was when Justice Holmes made that observation in 1927. However, ‘what we pay’ has certainly gone up.” The text neglects to mention that defenders of increased taxation for an expanded safety net would respond that programs adopted since 1927 such as Social Security, Medicare, Medicaid, and the Affordable Care Act have produced such ‘civilized’ benefits as a drastic reduction of poverty and economic insecurity among the elderly, children, and the population at large, and improved and more equal access to health care.

This quote sets the stage for a general discussion in Topic 12, Lesson 3, that focuses in an unbalanced way on the costs of government programs with very little offsetting discussion of the benefits which these taxes provide. The cartoon at Topic 12, Lesson 3, Text 2, p. 8, reflects the Lesson’s general attitude to taxation. In this cartoon, an employer tells his employee: “Gibbs, I subtracted your federal, state and social security taxes and medical from your paycheck, and you owe the firm \$50.”



Text 2: Federal Taxes Today



>> Taxes fund public programs and services, but some question the need for that spending and criticize the burden those taxes place on taxpayers. [Analyze Images](#) What comment does this cartoon make?

The caption for the cartoon reads: "Taxes fund public programs and services, but some question the need for that spending and criticize the burden those taxes place on taxpayers. What comment does this cartoon make?" The discussion on this page once again neglects to mention that the current level of taxation might be necessary to support essential safety net programs. Similarly, the text gives students the impression that Americans are very heavily taxed without placing this in historical or cross-national context. For instance, the text could have mentioned that according to the Congressional Budget Office, in 2011 federal taxes as a percentage of the GDP were at their lowest rate since 1950. The text might also have mentioned that United States has the lowest corporate tax burden of any member nation of the Organization for Economic Cooperation and Development (OECD). According to the Tax Policy Center of the Urban Institute, and Brookings Institution, U.S. taxes at all levels of government in 2008 claimed 26 percent of GDP, compared with an average of 35 percent of GDP for the 33 member countries of the OECD. The use of this cartoon is also unbalanced because the text provides no accompanying cartoon suggesting that excessively low taxes might lead to economic insecurity and poverty or that is critical of the lack of an adequate safety net for low-income Americans.

The text makes a similarly vague statement that gives students the impression that Americans are overtaxed at Topic 12, Lesson 3, Text 2, p. 6: "The Federal Government collects huge sums to finance three major social welfare programs: (1) the Old-Age, Survivors, and Disability Insurance (OASDI) program—the basic Social Security program, established by the Social Security Act of 1935; (2) Medicare—healthcare for the elderly, added to the Social Security program in 1965; and (3) the unemployment compensation program—benefits paid to jobless workers, a program also established by the Social Security Act in 1935." The claim that "huge sums" go to these programs is indeterminate. Are the sums "huge" as a percentage of the worker's paycheck? Are they "huge" compared to what is paid for these services in other countries? Are they huge or disproportionate compared to the allegedly paltry benefits recipients reap from these programs? The use of the word "huge" here is judgmental rather than descriptive. Without any supporting



evidence to specify or defend its claim, the statement is pure assertion and judgment of the type of public school textbooks ought to strive to avoid.

On a related note, the text provides an unbalanced discussion of Social Security at Topic 12, Lesson 3, Text 2, p. 6. The text makes an appropriate point in a chart suggesting that Social Security may face solvency problems in the near future. The text could have mentioned, though, that other esteemed economists believe that concerns about the solvency of Social Security are exaggerated.

The text's treatment of taxes is also unbalanced at Topic 12, Lesson 3, Text 1, p. 1: "A cut in taxes means more money in the hands of consumers, and their increased spending power means more jobs. An increase in taxes takes money away from consumers and so tends to slow the economy and reduce inflation." Again, the point that the text makes here about the stimulating effect of tax cuts on the economy is appropriate, but the text's statement here is too broad. The text, for instance, neglects to mention that many economists argue that some types of tax cuts often have a relatively small stimulating effect on the economy. To give just one example, the Congressional Budget Office concluded in 2012 that extending the tax cuts enacted under President George W. Bush would increase GDP by just 0.1%.

### ***Other Issues: Affirmative Action***

Topic 9, Lesson 4, Text 4, p. 9, claims that: "It seems clear that the days of affirmative action programs are drawing to a close." This prediction is highly contestable, and the evidence the text provides to support this claim is inadequate and lopsided. The text rests its claim in part on a Supreme Court case striking down an affirmative action policy (*Ricci v. DeStefano*) that was decided by a 5-4 margin. This means, of course, that the replacement of just a single Supreme Court justice could lead to very different outcomes in future cases regarding affirmative action. In addition, the federal government and state governments continue to maintain and even expand various types of affirmative action programs. To use just one recent example, in July 2014 Virginia Governor Terry McAuliffe signed an executive order designed to *expand* contracting opportunities to small, women-owned and minority-owned businesses. It is also at least plausible to suggest that the increasing proportion of minorities in the nation at large and in individual states could lead to greater public pressure for the adoption or maintenance of affirmative action policies. On a related note, proponents of affirmative action would argue that recent bans on affirmative action provide reason for voters to affirm the continued relevance of these programs. The University of Michigan claims, for instance, that minority enrollment dropped 33 percent from 2006 to 2012 after Michigan voters approved the Michigan Civil Rights Initiative (also known as Proposal 2) in 2006. In light of this type of evidence and the text's failure to mention it, it is difficult not to suspect that this prediction, which has little pedagogical or descriptive value for students, is intended to persuade students about the illegitimacy of affirmative action.

This suspicion receives further confirmation from the inclusion of a clickable box on the left at Topic 9, Lesson 4, Text 2, p. 3, which identifies states that have banned affirmative action. The caption accompanying this chart reads: "Affirmative action has been attacked most often in education...Why might states believe that banning affirmative action is beneficial to them from an economic standpoint?" The text lacks balance because it does not include a similar chart identifying the states that have maintained affirmative action policies or encouraging students to consider the possible economic and non-economic benefits of maintaining or expanding affirmative action.





The most problematic part of this section’s treatment of affirmative inclusion, though, involves the inclusion of not one, but two deeply troubling cartoons related to affirmative action. The “Interactive Cartoon” at Topic 9, Lesson 4, in this section depicts two extraterrestrials in a spaceship that has recently landed on Earth. Gesturing towards a man in a suit and tie, one alien says to the other: “This planet is great!—He says we qualify for affirmative action!” The cartoon in a box on the left at Topic 9, Lesson 4, Text 2, p. 6, depicts two aliens in a spaceship approaching Earth. One alien says to the other: “Relax, we’ll be fine. They’ve got affirmative action.” The question in the caption at the bottom of the cartoon is: “How is the cartoon suggesting that affirmative action would benefit the aliens?” By associating space aliens with beneficiaries of affirmative action, the cartoon seems to convey to students the deeply offensive implication that women and racial and ethnic minorities that receive affirmative action are somehow un-American or possibly less than human. The text does not have any counter-balancing cartoon that suggests to students possible reasons for supporting affirmative action.

Finally, the sole review question at the end of this text (p. 6) section further encourages students to question or oppose affirmative action. The multiple-choice question asks: “The Supreme Court applies strict scrutiny to affirmative action quotas because . . .” The correct answer is that “quotas make it impossible to choose individuals on a case-by-case basis.” Once again, the text lacks balance because there is no question suggesting why affirmative action programs might be consistent with the Constitution.



**PUBLISHER: Perfection Learning**

***I. During the debate over social studies curriculum standards in 2009-10, the State Board of Education sought to emphasize what they saw as important religious influences on the nation's founding documents and the formation of American government. They went so far as to suggest, for example, that Moses was an important influence in the writing of the nation's founding documents. Does the textbook exaggerate or inappropriately diminish the influence of religion and religious laws and ideals on the development of American government?'***

At p. 48, the text has an "FYI" table entitled "Social And Political Forces that Influenced the Founders." The chart lists Judeo-Christian heritage as one of these forces with the following commentary: "Several of the original colonies were founded by settlers who were determined to worship in their own way. All belonged to the Judeo-Christian tradition. Later, when the independence movement took root, the Declaration of Independence clearly stated that the people's inalienable rights were bestowed by the Creator."

The foundation of several colonies was motivated by religion, and the Declaration of Independence, of course, does reference "the Creator." The way the passage juxtaposes these indisputable facts and omits crucial context, however, creates a misleading impression. Having two sentences on the "Judeo-Christian" tradition of the colonists immediately precede the sentence on the mention of the "Creator" seems to suggest to students that the "Creator" in the minds of all the Founders was synonymous with the biblical God. This impression is enhanced by the fact that the entire section falls under the heading of "Judeo-Christian heritage."

The religious views of the Founders were diverse. Many Founders undoubtedly did identify the "Creator" referenced in the Declaration of Independence with the biblical God. Some others, including Thomas Jefferson and Benjamin Franklin, who helped draft the Declaration, were influenced by deist beliefs. Those influenced by deism believed in a God that ruled nature but whose features differed in crucial respects from the biblical God. It is likely, for instance, that Jefferson and Franklin identified the "Creator" of the Declaration as "nature's God" rather than the Biblical God. In addition, the passage neglects to mention that the Founders were often reluctant to use sectarian religious terms in founding national documents. Thus, of course, the preamble of the Constitution makes no mention of God.

The "FYI" table entitled "Where did the Founders get their ideas?" on p. 67 is even more problematic. The introductory section to this table states: "When the Framers set out to write the Constitution, they drew upon the wisdom of philosophers, historians and economists. Here are a few of the people whose words influenced the content of that remarkable document." Moses is listed first on this list followed by John Locke, Montesquieu, and Blackstone. The "Concept" Moses is alleged to have contributed is that "A nation needs a written code of behavior." The description of Moses includes the following sentences: "During their years of wandering in the desert of the Sinai, Moses handed down God's Ten Commandments to the Hebrews. These commandments now form the bedrock on which the Jewish, Muslim, and Christian codes of behavior are based. The full account of Moses' life can be found in the Bible's book of Exodus."

Unlike the contributions of the other three figures mentioned in the table, the contribution of Moses is highly nebulous and contestable. The Ten Commandments were not the only "written



code of behavior” known to the Framers or in the ancient world. The passage fails to mention which types of codified behavior influenced the Framers and thus make it impossible to evaluate or verify their claim. The Framers, for instance, were not influenced by the codification the first four Commandments, which deal with matters of religious belief and practice. Notable Framers such as James Madison led the battle against government punishment of unorthodox religious beliefs and required governmental financial support for religious institutions.

The sentence that “Moses handed down God’s Ten Commandments” implies that since God was the true author of the Ten Commandments and that the Constitution was directly influenced by God. The historical accuracy of the account in Exodus and God’s handing of the Ten Commandments, questioned by many Christians and Jews as well as nonbelievers, to Moses is presented as fact. As a matter of historical and scholarly accuracy, there is a fundamental difference between stating as matter of fact that John Locke wrote *The Second Treatise on Government* and that “the full account of Moses’ life can be found in the Bible’s book of Exodus” or that “Moses handed down God’s Ten Commandments.” The textbook does not acknowledge this difference.

At the least, the textbook should make an attempt to distance itself from the claims it is describing as other textbooks did. Stating, for instance, that “Jews and Christians believe that Moses handed down God’s Ten Commandments” would have been more acceptable. Without this qualification, the text seems to endorse the truth of these biblical claims. If these passages do not violate the letter of the First Amendment’s establishment clause, they certainly violate its spirit.

On a related note, the claims about Moses’ historical influence on the Founders in this passage are vague and indeterminate. The other three figures in the table are linked to distinctive ideas such as “natural individual rights” and “separation of powers” that are evident in the nation’s founding documents. Montesquieu and Blackstone receive mention, for instance, in the *Federalist Papers* that supported the Constitution’s ratification. Many of Locke’s central ideas such as his belief in natural rights and his views on the legitimacy of revolution are either paraphrased or otherwise alluded to in the Declaration of Independence. Moses is not mentioned in the nation’s founding documents or the *Federalist Papers*.

In addition, the text makes no attempt to establish the relative degree of influence exercised by these different individuals and “forces” on the Founders. Even if the claim that Moses’ influence on the Founders were plausible, for instance, his direct influence on the Founders would certainly pale in comparison to the direct influence of Locke and Montesquieu. By simply listing these different forces and individuals and giving them, the text inaccurately implies all these ideas were equally influential on the Founders.

Finally, on Page 82, one of the review questions for Chapter 3 asks students to hand out grades to these four figures, including Moses, for how they “influenced today’s system of government” and describe the grades in a paragraph for each figure. Not only is this problematic for all the reasons listed above, but since the paragraph from p. 67 is the only one in the entire text dealing with Moses, the most natural student response would be to simply repeat the content of the p. 67 paragraph.

## ***II. During the debate over social studies curriculum standards in 2010, a majority of State***



***Board of Education members refused to pass a requirement that students learn how the Constitution protects religious freedom by barring government from promoting one religion over all others. Supporters called the requirement important to teaching students about separation of church and state. But opponents said separation of church and state is not a constitutional principle. They succeeded in passing a requirement that students “compare and contrast” the phrase “separation of church and state” with the wording of the First Amendment. Does the textbook present separation of church and states as an important constitutional principle repeatedly upheld by the courts?***

The opening section to Chapter 4 (pp. 84-86) has a deeply unbalanced discussion of the background to the Supreme Court’s seminal ruling against school prayer in *Engel v. Vitale*. The discussion has four paragraphs that are devoted primarily to examining the logic of the rulings of lower, state courts in favor of school prayer. These paragraphs mention that “neither the Constitution nor its writers discussed the use of prayer in public schools” and that the judges in these cases “noted that the prayer did not fall into the same category as Bible readings or religious instruction in public schools.”

These four paragraphs are followed by a single paragraph that begins by stating: “Despite these arguments, a 6-1 Supreme Court majority declared in June 1962 that the New York prayer violated the First Amendment.” By contrast with the previous paragraphs’ extended discussion of the logic of the lower court’s opinions, there is very little discussion of the logic of the Supreme Court majority in *Engel*.

The paragraph also mentions that “neither the nonsectarian nature of the prayer nor the lack of compulsion mattered.” There are two fundamental problems with this statement. The first concerns the nature of the prayer at issue in *Engel v. Vitale*, which is as follows: “Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our country. Amen.” The prayer may be nonsectarian in that it is not associated with a specific Christian denomination. But the text neglects to mention that the prayer is certainly not religiously neutral and is inconsistent with the religious beliefs of Jews, Muslims, Unitarians, and members of non-monotheistic faiths, atheists, and agnostics.

Second, while arguing that the prayer at issue did not involve “compulsion,” the text neglects to mention that in later cases the Supreme Court majority has found that school-sanctioned prayers in public schools are coercive. Thus, Justice Kennedy’s majority opinion in *Lee v. Weisman* found that a school-sanctioned prayer at a middle school graduation failed the coercion test. Indeed, there is only glancing mention of subsequent Supreme Court cases in this paragraph, which again contrasts with the extended mention of lower court jurisprudence in favor of prayer preceding the *Engel* case.

The section’s subsequent discussion of the historical background to the First Amendment religion clauses is inadequate. The text mentions that the “restriction on the government” in the First Amendment is “sometimes expressed as part of the doctrine of the ‘separation of church and state.’” Unlike other texts, the text does not mention Thomas Jefferson’s use of the phrase “wall of separation between church and state” in his Letter to the Danbury Baptists. The text also neglects to mention that Jefferson’s views on separation were largely shared by James Madison, who played the primary role in drafting and ratification of the establishment clause, and that Justice Hugo Black



quoted Jefferson’s “wall of separation” phrase in his majority opinion in *Everson v. Board of Education*.

The text does have a straightforward and unobjectionable discussion of the two religion clauses of the First Amendment on pp. 87-88. The controversies over the interpretation of the Amendment are illustrated by accurate and balanced paragraphs devoted to debates over blood transfusions and military exemptions for pacifists, funding for religious schools, and the exemption of religious organizations from income tax. The even-handed treatment of establishment and free exercise clause cases in these passages, however, is not enough to outweigh the significant lack of balance in the text’s other passages.

***III. Does the textbook provide balanced discussions of issues involving the role of the courts? Do discussions about so-called “judicial activism” appear to support a particular political bias, or are they generally balanced and accurate in explaining competing opinions?***

The text’s treatment of the role of the courts is evenhanded. On p. 73, the text emphasizes: “Both liberals and conservatives charge judges with practicing ‘judicial legislation.’” Unlike problematic passages in other texts, this text acknowledges that conservative as well as liberal judges have been accused of activism. On a related note, the text on p. 398 describes the Supreme Court’s decision in *Munn v. Illinois* (1871) as an “excellent example of *judicial restraint*.” Judicial restraint is thus identified with accepting government regulation of business like the law at issue in *Munn*, which established maximum rates for grain warehouse and elevator rates. The text implies that an overturning of government regulation of business, which conservatives favor in some instances, might constitute judicial activism.

The appendix at p. 542 has an entry for judicial restraint defining it as “as a judicial philosophy under which courts limit themselves to interpreting the law and do not intrude on the legislative or executive branches of government.” Consistent with the passages in the previous paragraph, judicial restraint is not identified with one political ideology. Rather, it is identified more appropriately and accurately as an attitude towards maintaining or overturning actions taken by other branches of government, regardless of whether those actions had liberal or conservative roots and effects.

Finally, the text at p. 75 quotes the view of the esteemed Progressive historian Charles Beard that the Constitution “is what living men and women think it is.”

***IV. Concerns about federal-state roles and responsibilities were common throughout the debate over the new social studies curriculum standards in 2009-10. Does the textbook provide balanced discussions of the respective roles and responsibilities of national and state governments and conflict/disagreement (such as debates over “states’ rights”) over those roles today?***

The text provides a neutral description of the Constitution’s Supremacy Clause and concurrent and reserved powers on p. 62. This passage also includes a brief historical overview of federal-state disputes from John C. Calhoun’s nullification campaign to the conflicts over recent health care reforms.



Pages 68-69 provide a carefully balanced assessment of both the costs and benefits of governmental activity. On the one hand, the text states: “Most Americans want the American government to play an active role in maintaining our quality of life.” (See also the text’s similar statement on p. 229). It also identifies several vital services such as environmental protection that government provides. On the other hand, the text notes that significant tax burden that provisions of these services require.

***V. In its review of the Texas curriculum standards for U.S. History classes, the conservative Thomas B. Fordham Institute complained that “students are pressed to uncritically celebrate the ‘free enterprise system and its benefits.’ ‘Minimal government intrusion’ is hailed as key to the early nineteenth-century commercial boom—ignoring the critical role of the state and federal governments in internal improvements and economic expansion.” This theme was repeated in the debate over curriculum standards for U.S. Government. Some State Board of Education members emphasized the negative effects of government regulation and taxation on economic innovation and growth. Does the textbook provide balanced discussions of the effects of government taxation and regulation on free enterprise and the economy generally?***

On p. 26, the text reads: “Laissez-faire capitalism was widely practiced in the 1800s. Big companies used their power to enrich themselves at the expense of workers, competitors, and consumers. The American people began to demand government regulation so as to prevent the worst abuses. The change to government regulation has been dramatic. In the 1700s, government’s main economic role was to guarantee property rights. In the 1800s, government began the first steps toward regulating the activities of American corporations. Today the U.S. system can be best described as a *mixed economy*. Private enterprise must cope with many government regulations, but it also benefits from a substantial amount of government support.”

This passage indicates balance on treatment of economic issues in three ways. First, it acknowledges that the U.S. today has a “mixed market economy.” Second, it accurately explains that government regulation was a response to the “worst abuses” of the laissez-faire capitalist system previously in place. Third, its final sentence provides a measured assessment of the costs and benefits of government regulation to businesses themselves. This passage noting the limits of laissez-faire capitalism is balanced by the text’s claim on p. 23 : “Thanks to the energy of the American people and the resources of the land, this [capitalist] system has created one of the world’s highest standards of living.”

Similarly, at p. 76, the text includes a balanced assessment of the Founders’ views on capitalism. The text includes a quote from Thomas Jefferson about the importance of “individual enterprise.” At the same time, it notes that even Alexander Hamilton, who didn’t “particularly love the common people,” believed that the Constitution would restrain the rich and powerful from “enterprises against the common liberty.”

Balance is evident elsewhere in the text. On p. 69, the text notes that government provides essential economic assistance to the impoverished and disabled but also explains that “critics” claim that public assistance may discourage work. On pp. 230 and 234, the text is careful to identify that both “deficit spending” or “pump priming” as well as tax cuts are possibly effective responses to economic recessions. The text notes on p. 229: “Even though taxpayers grumble about their tax bills, most realize that their taxes are the government’s primary source of income.”



Finally, in a discussion of socialist systems like Sweden on p. 27, the text provides equal space to the vices that critics attribute to these systems and the virtues that advocates of these systems claim. The text is careful to note that many socialist economics like Sweden are consistent with democratic government and respect for personal freedoms.



***I. During the debate over social studies curriculum standards in 2009-10, the State Board of Education sought to emphasize what they saw as important religious influences on the nation's founding documents and the formation of American government. They went so far as to suggest, for example, that Moses was an important influence in the writing of the nation's founding documents. Does the textbook exaggerate or inappropriately diminish the influence of religion and religious laws and ideals on the development of American government?***

We The People (Level III), Lesson 3, includes a deeply problematic section entitled “How did the Judeo-Christian Heritage Contribute to the Founders’ Understanding of Human Rights?” The text reads: “Judeo-Christian morality was different from Greek and Roman ideals of civic virtue. Instead of public morality (the virtues that are important for acting in the community), it emphasized private morality, meaning the virtues of inner faith and obedience to God’s law. These were expressed in biblical teachings, such as the Ten Commandments and the Sermon on the Mount. Christian teachings gave special importance to duties such as goodwill and loving others.

The Christian view of the individual also differed from that of classical republicans. Christian teachings stressed the dignity and worth of each human being. Much of the Founders’ commitment to liberty and individual rights sprang from their belief in such ideals.

The Founders may have also drawn ideas about government from the Law of Moses, as set forth in the Bible. Attributed to Moses, who the Bible records as having led the Jews out of ancient Egypt, this Law is one of the earliest examples of a legal code. It included rules both for public and private morality, and stressed the duties and responsibilities of all people.”

The text’s sharp separation between Christian, and Greek and Roman morality is inaccurate and omits crucial information. Socrates manifested a deep concern with what this passage describes as matters of private morality as is evident, for instance, in the Platonic dialogue, Euthyphro. Significant Greek and Roman thinkers identified with the philosophical schools of Cynicism and Stoicism that pre-date Christianity also focused more on the cultivation of private rather than the civic virtue stressed in traditional Greek morality. These approaches had a profound historical effect on the development of Christian thought.

The claim that Christian teachings were the first to stress the dignity and worth of each human being is more plausible, but it should have been more specific and omits important information. Early Christianity was far more egalitarian in its attitude to women and the poor and less concerned with racial, ethnic and national differences than most of the religions and philosophies that preceded it. At the same time, the text neglects to mention that although early Christianity may have acknowledged the equal dignity of all humans, it did not support political equality. St. Paul’s Epistle to the Romans, Ch. 13 preaches acceptance of all political rulers and prohibits collective or violent resistance to tyranny. St. Paul’s Epistle to Philemon recounts his advice to a slave to return to his master. In addition, the Stoic conception of a natural moral law that applies equally to all societies and receives its most famous formulation in the works of Cicero pre-dates and likely influenced Christian views on equality between members of different nations.

The passage’s statement that “much of the Founders’ commitment to liberty and individual





rights sprang from their belief” in ideals derived from Christianity is an exaggeration given the influence the secular social contract tradition and the Enlightenment had upon the Founders’ views about liberty.

Furthermore, the passage ignores that the Christian conception of liberty has several different possible interpretations and legacies. The dual legacy of Christian views about liberty is evident in John Winthrop’s 1645 speech before the Massachusetts General Court. Winthrop famously advocates “civil” or “moral” liberty, or liberty that is used to obey God’s law. Winthrop argues that government has the right to occasionally enforce “moral” liberty. Most Founders, though, sided with John Locke in affirming what Winthrop described as “natural” liberty or freedom from government, and those Founders largely rejected the Puritan conception of “moral” liberty. The Protestant emphasis on individual conscience rooted in the Christian tradition did help to inspire Locke’s and the Founders’ conception of liberty, but the Founders were also reacting *against* a different conception of liberty that also had deep roots in the Christian tradition.

The passage’s most problematic feature, though, is its discussion of Moses. In fact, the passage seems to acknowledge the questionable nature of its claim through its use of the extremely vague term “may” to describe whether the Founders drew inspiration from the Law of Moses. Such a vague claim has no scholarly value especially when, as is the case here, no attempt is made to elaborate or substantiate the claim of the Founders’ reliance on the Law of Moses. The inclusion of this claim without evidence could indicate that the passage was inserted merely to satisfy the State Board of Education’s requirements. In addition, the text is unbalanced because it fails to note the significant ways in which many Founders rejected traditional biblical views on government and the relationship between church and state, and the legacy of the Puritans who did attempt to explicitly ground their political views on the Law of Moses.

The inclusion of this passage is a shame because in other respects the text’s treatment of the religious roots of the American experiment is superior to and more inclusive than that of other texts. The following text from *We the People* (Level III) is particularly commendable: “Being able to read the Bible for oneself encouraged greater freedom of conscience, or the freedom of individuals to decide about their own religious beliefs. Protestant religious doctrine emphasized a direct relationship between each believer and God. Luther argued for the ‘priesthood of all believers,’ which had the effect of decentralizing religious authority and empowering – and placing responsibility on – individual believers. All individuals were seen as equal in the eyes of God. Individuals were free to interpret the word of God, but God also was viewed as holding individuals accountable for their actions.

The spirit of free inquiry and individual conscience that the Reformation inspired contributed to the development of modern individualism.”

This passage is accurate, and the claims made in it are well-substantiated and well-defended. The claims of historical influence in this passage are modest and do not over-reach. In other words, this passage is everything that the passage on the “Judeo-Christian heritage’s” contribution to the Founders is not.

***II. During the debate over social studies curriculum standards in 2010, a majority of State Board of Education members refused to pass a requirement that students learn how the***



***Constitution protects religious freedom by barring government from promoting one religion over all others. Supporters called the requirement important to teaching students about separation of church and state. But opponents said separation of church and state is not a constitutional principle. They succeeded in passing a requirement that students “compare and contrast” the phrase “separation of church and state” with the wording of the First Amendment. Does the textbook present separation of church and states as an important constitutional principle repeatedly upheld by the courts?***

The overall treatment of the church-state relationship is well-balanced. For instance, the PowerPoint presentation on the Bill of Rights (slide 14) includes the following analysis: “The authors of the First Amendment viewed the establishment clause broadly. They sought to prevent the practice of an official national faith declared by a government that would favor certain religious organizations over others. This denial would also keep the government (as well as other religions) from interfering with an individual’s religious practices. In the Framers’ minds, this separation was complete, with no benefit given to any particular religion or to religion in general.” Compared to other texts, this PowerPoint presentation’s extended discussion of the roots of religious tolerance in the U.S. is admirable and inclusive. The presentation’s accurate discussion of the how the expansion of religious tolerance was rooted in religious developments and in particular the first Great Awakening is both welcome and accurate.

There are only two slight exceptions to this well-balanced treatment. The PowerPoint presentation (slide 15) identifies “broad” and “narrow” interpretation of the Establishment Clause. The discussion of the “narrow” interpretation, which would allow support for religion that is non-preferential, identifies the use of “In God We Trust” on coins and “under God” in the Pledge of Allegiance as practices that narrow interpreters would accept. The use of these examples to distinguish the broad and narrow views is questionable. Many supporters of the broad or more separationist view are willing to accept these practices, and especially the use of “In God We Trust” on coins. On a related note, We The People (Level III) Lesson 28 identifies a third approach to the Establishment Clause. The “literal interpretation” contends “that the First Amendment prohibits only the establishment of an official government religion. They would not prohibit the government’s participation in particular religious practices.” The text should have mentioned that, unlike the broad and narrow interpretations, the literal interpretation is not supported by any current Supreme Court justices. By simply describing the three interpretations alongside each other, students could be given the mistaken impression that Supreme Court justices and the preponderance of constitutional scholars view all three interpretations as equally plausible.

The We the People, Level III, text includes the following question for student discussion: “What are the advantages and disadvantages of religious diversity in society? What role, if any, should government play in fostering or limiting religious diversity? Why?” Both the use and phrasing of the question are odd. That a small number of religions adhered to by a very small minority of Americans plausibly poses a legitimate threat to the social order and our security may be accurate. Yet a consensus exists among Americans that the advantages of religious diversity outweigh the disadvantages. Christian Smith’s national survey of evangelical Christians found that a majority of evangelicals take a welcoming attitude to religious diversity in the United States.

Encouraging students to debate the disadvantages as well as the advantages of religious diversity could open the door for asymmetrical conversations among students that could promote



prejudice, and a feeling of alienation among vulnerable religious minority groups. Classes composed, for instance, of a majority of students from Christian backgrounds but few or no students from Muslim backgrounds may focus unfairly on what they perceive as disadvantages associated with the increase in Muslims in the United States. Such a class is less likely to focus on religious diversity problems associated with extremist Christian militia sects. What appears on the surface to be a balanced question is likely to have unbalanced effects in practice.

***III. Does the textbook provide balanced discussions of issues involving the role of the courts? Do discussions about so-called “judicial activism” appear to support a particular political bias, or are they generally balanced and accurate in explaining competing opinions?***

The text’s treatment of this issue is generally unbiased as is evident from the following passage found in the PowerPoint presentation on “Major Supreme Court Decisions” (slide 63): “Judicial activism recognizes that the two elected branches represent the will of the people and usually make fair and just decisions, but also that members of society who lack the resources or political clout to effectively convince the policy-setting branches to see their side sometimes need a voice. Judicial activists assume the responsibility for rejecting harmful actions by government or individuals and for charting new constitutional directions.”

Slide 64 is also careful to note problematic decisions rooted in the judicial restraint philosophy including the upholding of “state laws favoring ‘separate but equal.’” The text’s identification of perhaps the most esteemed of all Supreme Court justices, John Marshall, as the first judicial activist indicates that it at times portrays judicial activism in a positive light.

Most significantly, the text does not treat judicial activism as synonymous with liberalism or judicial restraint as synonymous with conservatism. Slide 64 in the presentation lists the settling of the 2000 presidential election as an example of judicial activism. Slide 65 notes: “Recognizing whether a court has exercised judicial activism or judicial restraint becomes difficult when looking only at political ideology (liberal or conservative). However, both are important doctrines for courts when deciding cases and for the public’s understanding of courts’ rulings.”

The only exception to this admirable and accurate treatment is an odd passage on slide 65: “Judicial restraint exercised by the court against New Deal legislation upheld previous rulings which restrained both the federal and state governments from undue involvement in economic matters.” The text is a bit unclear, but presumably it is arguing that cases in the early New Deal such as *Schechter v. U.S.* (1935) striking down Congressional legislation regulating the economy are examples of judicial restraint. Yet the text’s own definition of judicial restraint associates it with a heightened respect for the actions taken by the other two branches. According to the consensus among constitutional scholars and the text itself, these decisions relying on substantive due process are examples of judicial activism rather than judicial restraint.

***IV. Concerns about federal-state roles and responsibilities were common throughout the debate over the new social studies curriculum standards in 2009-10. Does the textbook provide balanced discussions of the respective roles and responsibilities of national and state governments and conflict/disagreement (such as debates over “states’ rights”) over those roles today?***



The textbook does not display any discernible bias concerning the relationship between the federal and state governments. The We the People (Level III), Lesson 26, reading has the following passage: “The Great Depression of the 1930s and 1940s changed federalism profoundly, as people looked to the national government to solve problems such as unemployment and to help in areas such as job services and old-age assistance. Previously, people had looked to private charitable organizations or to their state governments.” This lesson also has a discussion of the reserved powers and the supremacy clause, while Lesson 21 of the We the People reading has a discussion of the enumerated, implied and inherent powers of the federal government.

The We The People (Level III), Lesson 37, reading concludes: “Some people believe that Americans are becoming too dependent on government to solve social problems. They lament inefficiencies, costs, and loss of privacy associated with government provision of services. Others believe that the growth of government, particularly at state and local levels, is a sign that the private sector is not capable of providing many of the services required as the United States grows and matures as a nation.”

In summary, this text has a discussion of both the development of federal power and the reasons behind this development that is lacking in more unbalanced texts, and provides a balanced assessment of the advantages and disadvantages of enhanced federal power. See also material relevant to this issue discussed in Section V below.

***V. In its review of the Texas curriculum standards for U.S. History classes, the conservative Thomas B. Fordham Institute complained that “students are pressed to uncritically celebrate the ‘free enterprise system and its benefits.’ ‘Minimal government intrusion’ is hailed as key to the early nineteenth-century commercial boom—ignoring the critical role of the state and federal governments in internal improvements and economic expansion.” This theme was repeated in the debate over curriculum standards for U.S. Government. Some State Board of Education members emphasized the negative effects of government regulation and taxation on economic innovation and growth. Does the textbook provide balanced discussions of the effects of government taxation and regulation on free enterprise and the economy generally?***

The text has a simulation exercise (Government Activators (Vol. II): The Federal Bureaucracy) that provides extended discussion of the growth of federal regulation and the federal bureaucracy. The discussion is both comprehensive and neutral. This is apparent, for instance, in the text’s description of the New Deal: “During the Great Depression, the nation was challenged by high unemployment and a weakened economy. President Franklin D. Roosevelt created dozens of ‘New Deal’ agencies to address the needs of Americans.

Roosevelt’s New Deal programs increased the number of federal employees from 600,000 to over 1 million during the 1930s. The social welfare programs like the Social Security Administration and business regulatory agencies like the Federal Trade Commission added to the federal bureaucracy’s responsibilities and size and also made it a greater influence in people’s well-being and the operation of the economy.”

This passage is followed by a discussion of the continuing rise of the welfare state under Lyndon Johnson, the creation of the EPA by the Nixon Administration, and the scaling back of the federal bureaucracy under Ronald Reagan.



The section concludes with the following even-handed assessment: “Over the years, the federal bureaucracy increased in size and influence in order to allow the government to meet domestic and international challenges. Gradually, American society became more unified and interdependent. People began to rely more on the federal government to address their needs and make their lives better. Sometimes the federal government was successful in fulfilling this mandate and sometimes it wasn’t. Many of these demands were political in nature, promoted by elected officials who saw ways to benefit their constituents and further their political careers. However this situation of answering to many masters (Congress, the president, and the American people) can create confusion, redundancy, and inefficiency.”

A separate section in this exercise provides students with a list of pros and cons of several federal regulations including the Energy Independence and Security Act, and the Food Safety Modernization Act.



***I. During the debate over social studies curriculum standards in 2009-10, the State Board of Education sought to emphasize what they saw as important religious influences on the nation's founding documents and the formation of American government. They went so far as to suggest, for example, that Moses was an important influence in the writing of the nation's founding documents. Does the textbook exaggerate or inappropriately diminish the influence of religion and religious laws and ideals on the development of American government?***

Chapter 2 is devoted to “The Philosophy of the Constitution.” The only discussion of religion in the section’s overview examines the role of the Reformation in limited government. The chapter’s claim that the Protestant Reformation meant the end of absolutist government is insufficiently complex. The Reformation did help to set the stage for more limited government through its increased emphasis on the importance of individual conscience in religious matters. Yet many esteemed scholars of political thought argue that the decline of the Catholic Church as a countervailing political force as a result of the Reformation actually enhanced the power of the nation-state. Thus, the separation of the Church of England from the Catholic Church during Henry VIII’s reign dramatically increased the power of the English monarchy. In addition, early Lutherans preached the doctrine of *cuius regio, eius religio* (whose realm, his religion), which asserted that the sovereign prince of a region was entitled to determine the official religion of that region. John Calvin’s Geneva deeply entangled the powers of church and state as did, of course, the New England governments established by the American Puritans. Still, no direct link is made in this passage to the philosophy of the American Founders, and there is clearly no intent of bias.

Moses is mentioned as a “notable person” in the addenda to this chapter, but there is no link in the brief description of him to the American Founders. One of the documents included for discussion at the chapter’s end is Exodus 18, but the text accurately states that Moses’ influence on the American founding documents “rests on an incomplete reading of Moses’ role in the creation of the legal system.”

***II. During the debate over social studies curriculum standards in 2010, a majority of State Board of Education members refused to pass a requirement that students learn how the Constitution protects religious freedom by barring government from promoting one religion over all others. Supporters called the requirement important to teaching students about separation of church and state. But opponents said separation of church and state is not a constitutional principle. They succeeded in passing a requirement that students “compare and contrast” the phrase “separation of church and state” with the wording of the First Amendment. Does the textbook present separation of church and states as an important constitutional principle repeatedly upheld by the courts?***

Chapter 2 contains a tutorial section on the First Amendment. The tutorial first explains three different strands of thought that influenced the adoption of the First Amendment. This treatment is sufficiently balanced. Jefferson’s Danbury Baptist Association letter is mentioned as representative of one of these strands, the desire that religion should be “walled off” from government. The claim that an “‘evangelical’ view that government involvement would corrupt religion” was an influence on First Amendment thought is also accurate. The section identifies Roger Williams, whose beliefs are hardly aligned with those of hard-line evangelicals today, as an



important proponent of this “evangelical” view, and the section makes clear that historically many early American evangelicals were supporters of a church-state division.

The tutorial also includes a discussion of different judicial approaches to the establishment clause. The “strict separation”, “neutrality” and “accommodation” positions also receive an accurate treatment, and none of these positions are prioritized over any of the others. The discussion of free exercise cases in the tutorial is also fair.

***III. Does the textbook provide balanced discussions of issues involving the role of the courts? Do discussions about so-called “judicial activism” appear to support a particular political bias, or are they generally balanced and accurate in explaining competing opinions?***

Chapter 11 of the textbook is devoted to a discussion of the judiciary. The overview to the chapter includes very brief sections devoted to judicial restraint and judicial activism. The discussions are straightforward and descriptive, and the text does not prefer one approach to the other. The chapter does not provide any examples of activism, and thus activism is linked to neither the Democratic nor Republican Party nor judges nominated by either party.

This chapter’s case studies section includes a discussion of Supreme Court jurisprudence on abortion. There is no mention of judicial activism in the case study of various Supreme Court cases on abortion, and the discussion of American attitudes towards abortion and restrictions on abortion is exceptionally balanced.

***IV. Concerns about federal-state roles and responsibilities were common throughout the debate over the new social studies curriculum standards in 2009-10. Does the textbook provide balanced discussions of the respective roles and responsibilities of national and state governments and conflict/disagreement (such as debates over “states’ rights”) over those roles today?***

The main discussion of federalism is in Chapter 4. The discussion is straightforward and seeks to lay out facts rather than make a case for one side in the federalism debate or advance an agenda. Similarly, the historical discussion of the development of federalism over the course of American history provided in this section is accurate. The section mentions that in the period of the Founding, states were responsible for health, education, and police protection. At the same time, it mentions the adoption of the Fourteenth Amendment and that the Amendment’s interpretation by the New Deal-era Supreme Court allowed for enhanced federal control of both inter- and intra-state commerce.

The chapter’s section on the “elastic clause” of the Constitution notes the difference between “loose” and “strict” constructionists, but it favors neither position and does not provide any controversial historical or modern examples related to these different interpretations.

***V. In its review of the Texas curriculum standards for U.S. History classes, the conservative Thomas B. Fordham Institute complained that “students are pressed to uncritically celebrate the ‘free enterprise system and its benefits.’ ‘Minimal government intrusion’ is hailed as key to the early nineteenth-century commercial boom—ignoring the critical role of the state and federal governments in internal improvements and economic expansion.” This theme was repeated in***



***the debate over curriculum standards for U.S. Government. Some State Board of Education members emphasized the negative effects of government regulation and taxation on economic innovation and growth. Does the textbook provide balanced discussions of the effects of government taxation and regulation on free enterprise and the economy generally?***

Chapter 1 describes America as a “mixed capitalist system.” The association of the practices that “people's incomes are taxed, and some of those taxes are used to help the poor” with socialism is unfortunate. Benjamin Page and Lawrence Jacobs’s **The Class War** provides survey research evidence that a majority of Americans support a variety of programs that would enhance economic opportunity for lower income Americans including, for instance, early childhood education at least in the abstract. Many of these supporters, however, would strongly object to having their views described as socialist.

Still, this poor phrasing is not evidence of significant or widespread bias on this issue in the text. This chapter’s next section makes this clear by noting that “Americans share a number of beliefs about how they should be governed: they want a democratic, mixed-capitalist government.” In addition, a case study in this section of Chapter 1 examines the decline of the middle class and the recent rise in inequality. The section states that after 2008 “Americans again faced the question of whether or not our democracy can control the propertied class and their right-wing allies, while remaining a democracy, or not.” The text’s association of elements of the right wing in American politics with the propertied class and the description of both as potential threats to democracy clearly indicate that it does not have a conservative bias.

---

<sup>1</sup> The reviewer would like to express profound gratitude for the efforts of assistant researcher, Nicole Oestreicher. Ms. Oestreicher’s contributions to the review of all the textbooks, and the compilation of this report, were indispensable and invaluable.

<sup>2</sup> One recent survey found that 52% believe that “our government should redistribute wealth by heavy taxes on the rich.” See Page, Bartels, and Seawright, *Democracy and the Policy Preferences of Wealthy Americans*, 2013.





TEXAS  
FREEDOM  
NETWORK  
EDUCATION  
◆ FUND ◆

The Texas Freedom Network Education Fund supports research and education efforts that promote religious freedom and individual liberties.

P.O. Box 1624  
Austin, TX 78767  
Phone: 512-322-0545  
[www.tfn.org](http://www.tfn.org)