Winter 2010 Teaching with Primary Sources Quarterly
Learning Activity – Elementary Level

Historical Scene Investigation - The U.S. Constitution: "I Smelt a Rat"

OVERVIEW

Overview
In this activity, students explore reasons why influential patriots like Patrick Henry and George Mason opposed the U.S. Constitution during the ratification process, and consider the need for the Bill of Rights. Students become historical detectives, using historical thinking strategies to investigate primary sources for evidence, search for clues to analyze and finally "crack the case."

Objectives
After completing this learning activity, students will be able to:
- describe the historical context surrounding the ratification of the U.S. Constitution;
- recognize that initial opposition to the Constitution led to the addition of a Bill of Rights; and
- use evidence from primary sources relating to the ratification process to discuss the reasons for opposition to the Constitution among patriots like Patrick Henry and George Mason.

Time Required
Two class periods (90 minutes)

Recommended Grade Range
5-6

Topic/s
Government, Law

Subject
U.S. History

Standards
McREL 4th Edition Standards & Benchmarks
http://www.mcrel.org/compendium/browse.asp

Historical Understanding
Standard 2. Understands the historical perspective

United States History
Standard 8. Understands the institutions and practices of government created during the Revolution and how these elements were revised between 1787 and 1815 to create the foundation of the American political system based on the U.S. Constitution and the Bill of Rights.

Language Arts
Standard 7. (Reading) Uses reading skills and strategies to understand and interpret a variety of informational texts.

OVERVIEW (CONT'D)

Credits

Adapted from the Historical Scene Investigations Web site's *The U.S. Constitution: "I Smelt a Rat" Case*, created by Kathleen Owings Swan, Assistant Professor of Social Studies Education at the University of Kentucky and Mark Hofer, Associate Professor of Educational Technology at the College of William & Mary. This case was developed with support from the Library of Congress Teaching with Primary Sources Eastern Region coordinated by Waynesburg University.

PREPARATION

Materials

Have these materials ready before the activity.

-Prepare to display the following image for discussion by projecting it or printing copies:

- "Scene at signing of the Constitution of the United States." http://hdl.loc.gov/loc.pnp/ppmsc.00181

-Print a copy of the following guide for your own use:

- *Teacher's Guide to Analyzing Photographs and Prints* http://www.loc.gov/teachers/usingprimarysources/resources/Analyzing_Photographs_and_Prints.pdf

-Print and prepare to distribute the following handouts (one copy of each per student):

- *Becoming a Detective* activity introduction (see attached)
- *Detective's Log* graphic organizer (see attached)
- Document A: Speech by Dickinson at the Constitutional Convention – June 15, 1787

-(Optional) Prepare an Internet-ready computer for each student or pair of students:

- Bookmark the Historical Scene Investigation Web site's *The U.S. Constitution: "I Smelt a Rat" Case* (Student View) http://web.wm.edu/hsi/cases/constitution/constitution_student.html

-Print and prepare to distribute copies of the following (see attached) OR have students access electronic versions through the bookmark above:*

- Document B: Objections to the Constitution, George Mason
- Document C: Letters between George Washington, Patrick Henry, and Benjamin Harrison – September/October, 1787
- Document D: Patrick Henry's speech at Virginia Ratification Convention – June 4, 1788
- Document E: Patrick Henry's speech at Virginia Ratification Convention – June 24, 1788
- Document F: Letter from Madison to Jefferson, Oct. 17, 1788
- Document G: Madison's speech before 1st Congress concerning the need for amendments, June 8, 1789

**Assign at least one document per student or pair, distributing all documents among the class.*

Resources

- Historical Scene Investigation Web site's *The U.S. Constitution: "I Smelt a Rat" Case* (Teacher View): http://web.wm.edu/hsi/cases/constitution/constitution_teacher.html

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PROCEDURE

1. Before introducing the focus of the activity, guide the class through a basic analysis of the image, "Scene at signing of the Constitution of the United States." Use the *Teacher's Guide to Analyzing Photographs and Prints* to facilitate the class discussion. Key questions include:
   - Observe: *What do you notice first? What people and objects are shown?*
   - Reflect: *Why do you think this image was made? What's happening in the image? When do you think it was made?*
   - Question: *What do you wonder about? Who? What? Where? When? Why? How?*

2. Pass out the *Becoming a Detective* activity introduction and read it together as a class to introduce the activity's focus.

3. Pass out the *Detective's Log* graphic organizer and Document A to students.

4. Read Document A aloud to the class, and model how to complete the graphic organizer. [*Note: The primary source is the last paragraph of this document, which quotes Dickinson's speech to the Constitutional Convention. So the author is actually Dickinson.*]

5. Assign students to work at computers (or at their desks if using print copies of documents) individually or in pairs.

6. Pass out a document/s to each individual/pair. Explain that students only need to complete the *Detective's Log* graphic organizer for their assigned document/s.

7. Have students answer all of the *Detective's Log* questions independently for their assigned document/s before sharing responses one document at a time. Instruct students to write key information in their own logs as they listen to classmates discuss each document.

8. As a class, review the analytical questions at the bottom of the *Detective's Log*. Pass out paper for students to write their responses using evidence from the primary sources.

9. When students are ready, invite them to share their responses to the analytical questions and discuss as a class.

10. Remind students of the original question they need to answer to "crack the case." Discuss responses as a class.
    - *What do you think Patrick Henry meant by, "I smelt a rat?"*
    - *Use the evidence from the historical documents to support your hypotheses.*

EVALUATION

- Students' active participation in guided class discussions
- Teacher-developed rubrics to rate the quality of graphic organizers completed by students and of students' written responses to the analytical questions

***Becoming a Detective* Activity Introduction**
Historical Scene Investigation – The U.S. Constitution: "I Smelt a Rat"

"Scene at signing of the Constitution of the United States." Howard Chandler Christy.
Library of Congress, Prints and Photographs Division. http://hdl.loc.gov/loc.pnp/ppmsc.00181

The painting, "Signing of the Constitution," hangs in the House wing of the east stairway at the United States Capitol. Most likely, this image is in your civics textbook. But does this picture really tell the story of our nation's Constitution?

Commissioned in 1939, Howard Chandler Christy was paid $30,000 to render an "accurate" depiction of Independence Hall in Philadelphia on September 17, 1787. Using techniques of light and shadow as well as centering prominent figures like George Washington and Benjamin Franklin, this painting presents a picture of a unified vision from the delegates.

However, it is important to note that Howard Christy took some artistic liberties. For example, several delegates left the convention without signing, and three delegates (Edmund Randolph and George Mason from Virginia and Elbridge Gerry from Massachusetts) declined to sign the document. Others refused to attend the convention altogether, including one of the leading figures of the American Revolution – Patrick Henry from Virginia. When asked why he chose not to attend, he commented, "I smelt a rat."

As a historical detective, your job will be to investigate historical documents to determine why so many influential patriots like Patrick Henry and George Mason did not support the Constitution initially. In other words, you must find out what Patrick Henry meant by, "I smelt a rat."

Detective's Log (page 1 of 2)

Document	Who created this document? (author) Who was the intended audience?	When was it created?	What <u>objections to the Constitution</u> are either stated or implied?
Document A			
Document B			
Document C			
Document D			

Detective's Log (page 2 of 2)

Document	Who created this document (author)? Who was the intended audience?	When was it created?	What objections to the Constitution are either stated or implied?
Document E			
Document F			
Document G			

Analytical Questions (write responses on a separate piece of paper)

1. In summary, what are the key objections to the Constitution?
2. How would you assess the merits of these objections?
3. Look at your textbook entry on the ratification of the Constitution. To what degree are these objections covered?
   Why do you think that the objections to the Constitution by such notable patriots are not emphasized more in your history textbook?

Document A: "…We would sooner submit to a foreign power"

Records of the Federal Convention of 1787 – Resolution Proposed by Mr. Patterson (New Jersey), June 15, 1787
Source: http://lcweb2.loc.gov/cgi-bin/query/r?ammem/hlaw:@field(DOCID+@lit(fr00191))

At the onset of the Constitutional Convention, Governor Randolph of Virginia put forth Madison's Virginia Plan for a new form of government which favored the large states over the small states. William Patterson of New Jersey then countered by proposing the New Jersey Plan that put the small states on an equal footing with the large states. This plan reflected the anxiety felt by delegates from the small states, particularly New Jersey and Delaware.

In the official records of the Federal Convention of 1787, the following was recorded,

"Mr. Dickenson (from Pennsylvania) said to Mr. Madison "You see the consequence of pushing things too far. Some of the members from the small States wish for two branches in the General Legislature, and are friends to a good National Government; but we would sooner submit to a foreign power, than submit to be deprived of an equality of suffrage, in both branches of the legislature, and thereby be thrown under the domination of the large States." January 1639/40-ACT X.

Document B: Objections to the Constitution, George Mason

Elliot's Debates --OBJECTIONS OF THE HON. GEORGE MASON, ONE OF THE DELEGATES FROM VIRGINIA IN THE LATE CONTINENTAL CONVENTION, TO THE PROPOSED FEDERAL CONSTITUTION; ASSIGNED AS HIS REASONS FOR NOT SIGNING THE SAME.

Excerpts:

There is no declaration of rights; and, the laws of the general government being paramount to the laws and constitutions of the several states, the declarations of rights in the separate states are no security. Nor are the people secured even in the enjoyment of the benefit of the common law, which stands here upon no other foundation than its having been adopted by the respective acts forming the constitutions of the several states.

…The judiciary of the United States is so constructed and extended as to absorb and destroy the judiciaries of the several states; thereby rendering laws as tedious, intricate, and expensive, and justice as unattainable, by a great part of the community, as in England; and enabling the rich to oppress and ruin the poor.

The President of the United States has no constitutional council, (a thing unknown in any safe and regular government.) He will therefore be unsupported by proper information and advice, and will generally be directed by minions and favorites; or he will become a tool to the Senate; or a council of state will grow out of the principal officers of the great departments--the worst and most dangerous of all ingredients for such a council, in a free country; for they may be induced to join in any dangerous or oppressive measures, to shelter themselves, and prevent an inquiry into their own misconduct in office. Whereas, had a constitutional council been formed (as was proposed) of six members, viz., two from the Eastern, two from the Middle, and two from the Southern States, to be appointed by vote of the states in the House of

…By requiring only a majority to make all commercial and navigation laws, the five Southern States (whose produce and circumstances are totally different from those of the eight Northern and Eastern States) will be ruined; for such rigid and premature regulations may be made, as will enable the merchants of the Northern and Eastern States not only to demand an exorbitant freight, but to monopolize the purchase of the commodities, at their own price, for many years, to the great injury of the landed interest, and the impoverishment of the people; and the danger is the greater, as the gain on one side will be in proportion to the loss on the other. Whereas, requiring two thirds of the members present in both houses, would have produced mutual moderation, promoted the general interest, and removed an insuperable objection to the adoption of the government.

…This government will commence in a moderate aristocracy: it is at present impossible to foresee whether it will, in its operation, produce a monarchy or a corrupt oppressive aristocracy; it will most probably vibrate some years between the two, and then terminate in the one or the other.
GEO. MASON.

Document C: Letters between George Washington, Patrick Henry, and Benjamin Harrison – September/October, 1787

George Washington to Patrick Henry, Benjamin Harrison, and Thomas Nelson Jr., September 24, 1787

Mount Vernon, September 24, 1787.

Dear Sir: In the first moment after my return I take the liberty of sending you a copy of the Constitution which the foederal Convention has submitted to the People of these States. I accompany it with no observations; your own Judgment will at once discover the good, and the exceptionable parts of it. and your experience of the difficulties, which have ever arisen when attempts have been made to reconcile such variety of Interests and local prejudices as pervade the several States will render explanation unnecessary. I wish the Constitution which is offered had been made more perfect, but I sincerely believe it is the best that could be obtained at this time; and, as a Constitutional door is opened for amendment hereafter, the adoption of it under the present circumstances of the Union is in my opinion desirable.

From a variety of concurring accounts it appears to me that the political concerns of this Country are, in a manner, suspended by a thread. That the Convention has been looked up to by the reflecting part of the community with a solicitude which is hardly to be conceived, and that if nothing had been agreed on by that body, anarchy would soon have ensued, the seeds being richly [sic] sown in every soil. I am &c.8

Responses:

Henry answered (October 19): "I have to lament that I cannot bring my Mind to accord with the proposed Constitution The Concern I feel on this Account, is really greater than I am able to express. Perhaps mature Reflection may furnish me Reasons to change my present Sentiments into a Conformity with the Opinions of those personages For whom i have the highest Reverence."

On October 4 Harrison replied: "I feel myself deeply interested in every thing that you have had a hand in, or that comes from you, and am so well assured of the solidity of your judgment, and the rectitude of your intentions, that i shall never stick at trifles to conform myself to your opinion; in the present instance, I am So totally uninform'd as to the general situation of America, that I can form no judgment of the necessity the convention was under to give us such a constitution as it has done; If our condition is not very desperate, I have my fears that the remedy will prove worse than the disease. Age makes men often over cautious; I am walling to attribute my fears to that cause, but from whatever source they spring, I cannot divest myself of an opinion, that the seeds of civil discord are plentifully sown in very many of the powers given both to the president and congress, and that if the constitution is carried into effect, the States south of the potowmac, will be little more than appendages to those to the northward of it....I shall only say, that my objections chiefly lay agst. the unlimited powers of taxation and the regulations of trade, and thee jurisdictions that are to be established in every State altogether independent of their laws, The sword, and such powers will; nay in the nature of things they must sooner or later, establish a tyranny, not inferior to the triumvirate or centum viri of Rome."

http://memory.loc.gov/cgi-bin/query/r?ammem/mgw:@field%28DOCID+@lit%28gw290211%29%29

Document D: Patrick Henry's speech at Virginia Ratification Convention – June 4, 1788

Mr. HENRY. Mr. Chairman, the public mind, as well as my own, is extremely uneasy at the proposed change of government. Give me leave to form one of the number of those who wish to be thoroughly acquainted with the reasons of this perilous and uneasy situation, and why we are brought hither to decide on this great national question. I consider myself as the servant of the people of this commonwealth, as a sentinel over their rights, liberty, and happiness. I represent their feelings when I say that they are exceedingly uneasy at being brought from that state of full security, which they enjoyed, to the present delusive appearance of things. A year ago, the minds of our citizens were at perfect repose. Before the meeting of the late federal Convention at Philadelphia, a general peace and a universal tranquillity prevailed in this country; but, since that period, they are exceedingly uneasy and disquieted. When I wished for an appointment to this Convention, my mind was extremely agitated for the situation of public affairs. I conceived the republic to be in extreme danger. If our situation be thus uneasy, whence has arisen this fearful jeopardy? It arises from this fatal system; it arises from a proposal to change our government — a proposal that goes to the utter annihilation of the most solemn engagements of the states — a proposal of establishing nine states into a confederacy, to the eventual exclusion of four states. It goes to the annihilation of those solemn treaties we have formed with foreign nations.

… This proposal of altering our federal government is of a most alarming {22} nature! Make the best of this new government — say it is composed by any thing but inspiration — you ought to be extremely cautious, watchful, jealous of your liberty; for, instead of securing your rights, you may lose them forever. If a wrong step be now made, the republic may be lost forever. If this new government will not come up to the expectation of the people, and they shall be disappointed, their liberty will be lost, and tyranny must and will arise. I repeat it again, and I beg gentlemen to consider, that a wrong step, made now, will plunge us into misery, and our republic will be lost.

…I have the highest veneration for those gentlemen; but, sir, give me leave to demand, What right had they to say, We, the people? My political curiosity, exclusive of my anxious solicitude for the public welfare, leads me to ask, Who authorized them to speak the language of, We, the people, instead of, We, the states? States are the characteristics and the soul of a confederation. If the states be not the agents of this compact, it must be one great, consolidated, national government, of the people of all the states.

… The people gave them no power to use their name. That they exceeded their power is perfectly clear.

http://www.constitution.org/rc/rat_va_03.htm

Document E: Patrick Henry's Speech at Virginia Ratification Convention, June 24, 1788

Mr. HENRY, after observing that the proposal of ratification was premature, and that the importance of the subject required the most mature deliberation, proceeded thus: — The honorable member must forgive me for declaring my dissent from it; because, if I understand it rightly, it admits that the new system is defective, and most capitally; for, immediately after the proposed ratification, there comes a declaration that the paper before you is not intended to violate any of these three great rights — the liberty of religion, liberty of the press, and the trial by jury. What is the inference {588} when you enumerate the rights which you are to enjoy? That those not enumerated are relinquished. There are only three things to be retained — religion, freedom of the press, and jury trial. Will not the ratification carry every thing, without excepting these three things? Will not all the world pronounce that we intended to give up all the rest? Every thing it speaks of, by way of rights, is comprised in these things. Your subsequent amendments only go to these three amendments.

I feel myself distressed, because the necessity of securing our personal rights seems not to have pervaded the minds of men; for many other valuable things are omitted: — for instance, general warrants, by which an officer may search suspected places, without evidence of the commission of a fact, or seize any person without evidence of his crime, ought to be prohibited. As these are admitted, any man may be seized, any property may be taken, in the most arbitrary manner, without any evidence or reason. Every thing the most sacred may be searched and ransacked by the strong hand of power. We have infinitely more reason to dread general warrants here than they have in England, because there, if a person be confined, liberty may be quickly obtained by the writ of habeas corpus. But here a man living many hundred miles from the judges may get in prison before he can get that writ.

http://www.constitution.org/rc/rat_va_20.htm

Document F: Letter from Madison to Jefferson, Oct. 17, 1788

TO THOMAS JEFFERSON. ... MAD. MSS.
New York, Ocr 17, 1788.

Dear Sir,--

…The little pamphlet herewith inclosed will give you a collective view of the alterations which have been proposed for the new Constitution. Various and numerous as they appear they certainly omit many of the true grounds of opposition. The articles relating to Treaties, to paper money, and to contracts, created more enemies than all the errors in the System positive & negative put together. It is true nevertheless that not a few, particularly in Virginia have contended for the proposed alterations from the most honorable & patriotic motives; and that among the advocates for the Constitution there are some who wish for further guards to public liberty & individual fights. As far as these may consist of a constitutional declaration of the most essential rights, it is probable they will be added; though there are many who think such addition unnecessary, and not a few who think it misplaced in such a Constitution. … My own opinion has always been in favor of a bill of rights; provided it be so framed as not to imply powers not meant to be included in the enumeration. At the same time I have never thought the omission a material defect, nor been anxious to supply it even by subsequent amendment, for any other reason than that it is anxiously desired by others. I have favored it because I supposed it might be of use, and if properly executed could not be of disservice.

I am, Dr sir with the sincerest esteem & affectn,
Yours

http://memory.loc.gov/cgi-bin/query/r?ammem/mjmtext:@field%28DOCID+@lit%28jm050091%29%29

Document G: Madison's speech before 1st Congress concerning the need for amendments, June 8, 1789

Annals of Congress, House of Representatives, 1st Congress, 1st Session, Pages 441 through 466, Amendments to the Constitution, June 8, 1789

Mr. Madison: It cannot be a secret to the gentlemen in this House, that, notwithstanding the ratification of this system of Government by eleven of the thirteen United States, in some cases unanimously, in others by large majorities; yet still there is a great number of our constituents who are dissatisfied with it; among whom are many respectable for their talents and patriotism, and respectable for their jealousy they have for their liberty, which, though mistaken in its object, is laudable in its motive. There is a great body of the people falling under this description, who at present feel much inclined to join their support to the cause of Federalism, if they were satisfied on this one point. We ought not to disregard this inclination, but, on principles of amity and moderation, conform to their wishes, and expressly declare the great rights of mankind secured under this constitution.

…There have been objections of various kinds made against the constitution. Some were leveled against its structure because the President was without a council; because the Senate, which is a legislative body, had judicial powers in trials on impeachments; and because the powers of that body were compounded in other respects, in a manner that did not correspond with a particular theory; because it grants more power than is supposed to be necessary for every good purpose, and controls the ordinary power of the State Governments. I know some respectable characters who opposed this Government on these grounds; but I believe that the great mass of the people who opposed it, disliked it because it did not contain effectual provisions against encroachments on particular rights, and those safeguards which they have been long accustomed to have interposed between them and the magistrate who exercises the sovereign power; nor ought we to consider them safe, while a great number of our fellow-citizens think these securities necessary.

http://lcweb2.loc.gov/cgi-bin/ampage?collId=llac&fileName=001/llac001.db&recNum=226