Bill of Rights in Action

Constitutional Rights Foundation

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THE ELECTION OF 1912

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The four candidates in the 1912 election, from L to R: William H. Taft, Theodore Roosevelt, Eugene V. Debs, and Woodrow Wilson.

The 1912 presidential election was a race between four leaders who each found it necessary to distinguish their own brand of progressive reform. The election and its outcome had far reaching social, economic, and political consequences for the nation.

Rapid industrialization in the 19th century led to a variety of American economic and social problems. Among them were child labor; urban poverty; bribery and political corruption; unsafe factories and industries; and jobs with low wages and long hours.

Beginning as a social movement, progressivism was an ideology (set of beliefs) aimed at addressing industrialism's problems. It focused on protecting the people from excessive power of private corporations. Progressives emphasized a strong role for government to remedy social and economic ills by exposing corruption and regulating big business.

Not surprisingly, the 1912 presidential election became a contest over progressive principles. Theodore Roosevelt, William Howard Taft, Woodrow Wilson, and Eugene Debs campaigned to convince the electorate that their vision for change would lead America into a new age of progress and prosperity.

Roosevelt, Taft, and the Republican Party

Theodore Roosevelt (1858–1919) committed himself early in life to public service and progressive reforms. After attending Harvard University and a year at Columbia Law School, Roosevelt was elected to the New York State Assembly. He subsequently served in a number of official posts, including the United States Civil Service Commission, president of the board of New York City Police Commissioners, and assistant secretary of the ➤

POLITICAL CONFLICT

This edition of *Bill of Rights in Action* looks at well-known conflicts in politics. The first article examines the sometimes raucous election of 1912. The second article looks at the effects of a 19th century rivalry between two powerful British politicians. The third article explores the controversy that erupted from Edward Snowden's revelations about government surveillance.

U.S. History: The Election of 1912
World History: The Great Rivalry: Disraeli vs. Gladstone
Government: Edward Snowden, the NSA, and Mass Surveillance

Guest writer Pam Jenning wrote "The Election of 1912." Longtime contributor Carlton Martz wrote about Disraeli and Gladstone and about mass surveillance.

Navy in 1897. He organized the "Rough Riders" and fought in the Spanish American War in 1898. He was elected as governor of New York that same year.

Republican presidential candidate William McKinley chose Roosevelt as his vice president in 1900. After McKinley's assassination by an anarchist's gunshot in 1901, Roosevelt succeeded him. At age 42, he was the youngest president in American history. During his two terms in office from 1901 to 1909, he championed progressive policies, such as anti-monopoly legislation (to protect small businesses). He met the great naturalist John Muir in Yosemite and helped establish the National Park Service. He greatly expanded the country's role in world politics and significantly increased the power of the presidency.

William Howard Taft (1857–1930) and Roosevelt were friends and shared progressive ideas. In his career, Taft had preferred to serve his country as a jurist, or judge. (In 1921, he would become chief justice of the Supreme Court.) Son of a prominent judge, Taft graduated from Yale University, practiced law in his hometown of Cincinnati, Ohio, and received a number of judicial appointments.

As president, Roosevelt made Taft his secretary of war and even promoted him as his chosen successor to the White House in the election of 1908. Taft became the 27th president, pledging to maintain Roosevelt's progressive legacy.

Punch Magazine/Wikimedia Commons

What do you think this cartoon from May 1912 was saying about the election?

Once in the White House, however, Taft disappointed his old friend and mentor, siding with the conservatives in his party on key decisions. Progressive Republicans distrusted tariffs, or taxes on imports, as a hindrance to trade. But Taft signed into law a bill that barely lowered tariffs, and he also dismissed a conservationist as head of the Bureau of Forestry, both decisions that upset Roosevelt.

Even though Taft was more conservative than Roosevelt, his administration did have progressive highlights. Taft's administration filed 80 antitrust (anti-monopoly) lawsuits against corporations. Taft also supported amendments for a federal income tax and for popular election of senators (who were chosen at that time by state legislatures and not voters).

Frustrated by what he perceived as Taft's half-hearted attempts to continue progressive policies, Roosevelt decided to enter the 1912 presidential race. He believed he could better unite the Republican Party. Roosevelt was also known for his outsized ego, and many historians believe his regrets over not running for another term in 1908 motivated him to run in 1912.

The Great Split

In 1912, Roosevelt arrived at the Republican convention in Chicago ready to challenge incumbent president Taft. He had more delegates from primary elections than Taft, but not nearly enough for the required majority. Taft and the Republican National Committee (RNC), however, were deeply concerned that Roosevelt's progressivism was too radical. Many also worried about Roosevelt's overbearing leadership style.

The RNC and the convention chairman Elihu Root awarded contested delegates to Taft, giving Taft the required majority for the nomination. The convention became a shouting match, full of rancor. Roosevelt supporters shouted "Liar!" at Root. But Taft won the nomination on the first ballot.

Roosevelt and his supporters left the convention in protest and formed the new Progressive Party,

which promptly nominated Roosevelt as its candidate. After Roosevelt told reporters "I feel like a bull moose," the new party was nicknamed the "Bull Moose Party." The split in the Republican Party was now beyond mending.

The Progressive Party platform reflected the principles of what Roosevelt called the "New Nationalism." The platform included an array of reforms, such as the creation of a minimum wage, protection of immigrants, a workers' compensation act (for on-the-job injuries), government pensions for retirees, a national health service, support for women's suffrage, an eight-hour workday, a social security system (for retirement), and laws against child labor. It also called for a tariff commission to reduce "unjust or excessive" tariffs. The platform made conservation of natural resources a prominent feature.

Like the New Nationalism, Taft's Republican platform still supported a protective tariff, arguing that tariffs could be adjusted in certain circumstances, helped develop the country's resources, diversified industry, and shielded workers against unfair competition. Unlike the New Nationalism, restrictions on immigration were a prominent Republican concern. Conservation of "national resources," however, was somewhat less prominent.

The split in the Republican Party was now beyond mending.

The Republican platform also displayed caution about corporations' undue power. Taft and the Republicans advocated for the establishment of a federal trade commission to both relieve the burden on the courts and to speed the administration of regulations. They also advocated legislation to prohibit corporate campaign contributions and to support making certain antitrust actions into criminal offenses.

Wilson and the Democrats

Like Roosevelt and Taft, Woodrow Wilson (1856–1924) was born in the decade before the Civil War. He graduated from the College of New Jersey (now Princeton University), earned a law degree from the University of Virginia, and received his doctorate degree from Johns Hopkins University. He began his working career as a political science professor at various institutions, later becoming president of Princeton from 1902 to 1910.

Noting Wilson's growing national profile, conservative Democrats encouraged him to run for New Jersey governor. During the campaign, Wilson embraced a progressive platform, separating himself from his conservative backers. He became a leader of the progressive movement both as governor and in his 1912 campaign for president. Wilson secured the Democratic nomination at the party's convention in Baltimore, but only after 46 ballots.

Wilson believed that government had a duty to restore competition when big business threatened to overwhelm small business. He wanted to attack what he called the "Triple Wall of Privilege," or tariffs that protected large industries; banks that tightened currency and limited loans; and trusts (monopolies) that controlled industries and fixed prices. Wilson's platform, "The New Freedom," proposed tariff reductions, stronger antitrust laws, banking and currency reform, a federal income tax, the direct election of senators in states, and limits on corporate campaign donations.

While both Roosevelt's and Wilson's 1912 platforms shared many progressive principles, they had key differences around trusts and tariffs. Roosevelt argued that some trusts were benign while others were harmful. In his view, trusts could be regulated. Wilson, however, saw all trusts as harmful to the public good. Regulation of trusts, according to Wilson, would ultimately fail as big business would use its power to get around government control. In Roosevelt's view, too, tariffs protected wages, while Wilson saw them as just another special interest program for powerful corporations.

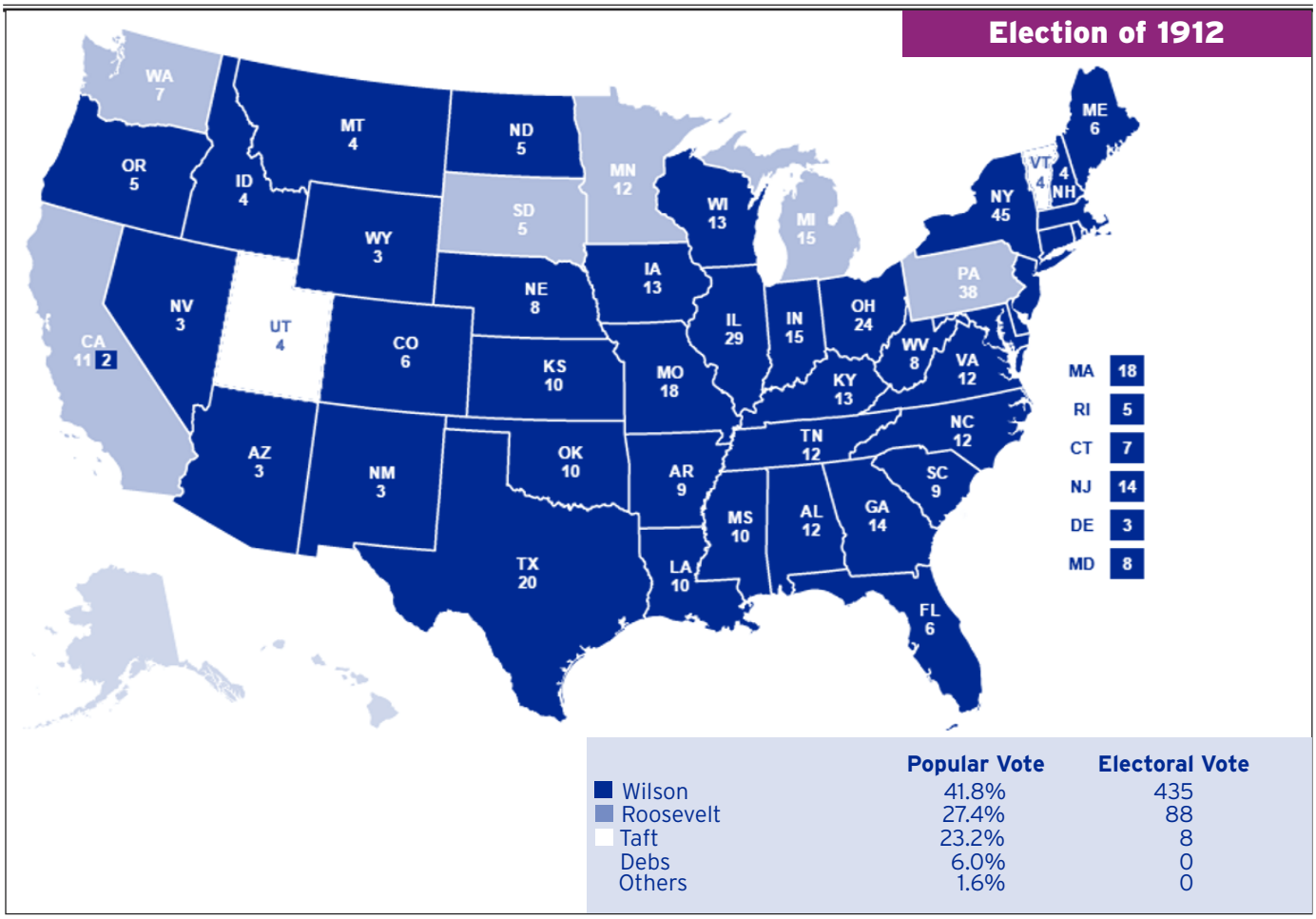
Debs and the Socialists

After dropping out of school at 14, Eugene V. Debs (1855–1926) began a series of railroad jobs in his hometown of Terre Haute, Indiana. This experience led him to become a labor leader and to successfully run for elected offices as a Democrat, such as city clerk in 1878 and state assemblyman in 1885. In 1893, he was a founder of the American Railway Union.

The 1894 Pullman Strike in Chicago turned Debs into a radical. During the strike, federal troops occupied the city, and labor activists were jailed. These actions convinced Debs that trade unions lacked the power to curb the excesses of capitalism (an economy controlled by private rather than public interests).

By 1896, he saw socialism as the alternative to capitalism. In his view, socialism would give more power to the individual and protect workers from exploitation. Socialists stressed that capitalism was not only incompetent but corrupt, oppressing workers and separating society into antagonistic classes. The capitalist class, they argued, controlled the government.

In 1900, Debs ran for president of the United States for the first time on the Social Democratic Party (SDP) ticket. He would run four more times during his life. (In ➤



This map shows the electoral votes and winner for each state in the general election of 1912. What do you think would have happened if Roosevelt had not run on the Bull Moose ticket?

1920, he ran while serving a federal prison sentence for publicly opposing the draft in World War I.)

By 1912, the SDP had become the Socialist Party, and its platform called for a radical reorganization of American social and economic institutions. The platform called for collective (public) ownership and "democratic management" of land, railroads, telegraph and telephone systems, and the banking and currency system. It called for public ownership of natural resources and large-scale industries, like mining.

Similar to the Republican and Progressive platforms but more profound in scope, the Socialist platform emphasized that workers, as a class, needed protection. The platform included the eight-hour workday, restrictions on child labor, a minimum wage, old-age pensions, unemployment and health insurance, and a graduated income tax. More radically, the platform sought to abolish the Senate, the president's veto power, federal courts, and the Supreme Court's power to decide the constitutionality of legislation.

The Race

Although the 1912 campaign showcased four dynamic individuals, the election was mainly between Roosevelt and Wilson. Wilson had a secure foundation with his Democratic base and used his New Freedom platform to win over Progressive Party voters. Roosevelt travelled 10,000 miles to 34 states, particularly to the dozen states with direct primary elections.

Roosevelt spoke for 90 minutes in Milwaukee even after a would-be assassin shot him in the chest. The bullet apparently was slowed down by the steel eyeglasses case and folded-up 50-page copy of the speech in Roosevelt's coat pocket.

Even though Taft was the incumbent in a majority party that had dominated since the 1890s, he made very few campaign appearances. Like Roosevelt, Debs' campaign strength revolved around his forceful and eloquent speaking ability. Debs depended on the support of labor unions and collected campaign contributions from the large crowds at his rallies, which often outnumbered those of other candidates.

When the votes were counted, Woodrow Wilson became the first Democrat to win the White House since Grover Cleveland left it in 1897. Despite Roosevelt's energy and popularity with progressives, he and Taft split the Republican vote (27.4 percent and 23.2 percent, respectively). The split enabled Wilson to win without

a majority of total votes (41.8 percent). Debs, with almost a million votes (6 percent), proved to be one of the most successful third party candidates in U.S. history.

Legacy of the 1912 Election

Wilson's presidency, which incorporated many of Debs' and Roosevelt's proposals, introduced a number of sweeping changes that had long lasting effects. He signed into law the Federal Reserve Act that reformed the banking system, the Clayton Anti-Trust Act that broke up monopolies in business, and a bill to lower tariffs. The new Federal Trade Commission regulated unfair labor practices. Wilson's administration also established the first graduated income tax and the popular election of U.S. senators through the 16th and 17th amendments to the Constitution.

The progressivism of Debs, Roosevelt, Taft, and Wilson also led the way for the broad reforms of Franklin Roosevelt's New Deal. Theodore Roosevelt's success with primary voters developed over the next 60 years into the modern state primary system where party delegates are chosen by voters instead of by party officials. Significantly, for the rest of the 20th century and beyond, the Republican Party's struggle between reform and reaction has underscored the nation's ongoing conflict between progressive idealism and conservative principles.

DISCUSSION AND WRITING

1. At the Republican Party national convention in 1912, Taft called Roosevelt "the greatest menace to our institutions that we have had in a long time." Roosevelt, in turn, called Taft part of "the forces of reaction and of political crookedness." What information in the article shows you why they would show such hostility toward each other
2. In what ways did all four candidates share progressive ideas?
3. Compare Roosevelt's New Nationalism and Wilson's New Freedom. Then, compare the Socialist Party platform to both of them. What were the key differences between the progressivism of Debs and that of Roosevelt and Wilson?

ACTIVITY: Progressives Debate!

Imagine it is 1912. The presidential candidates will debate the following main question:

Which candidate is the most capable of advancing progressive ideas in the United States?

Choose three students who will moderate the debate. They will use the article to prepare at least two questions *each* to ask the candidates (at least six additional questions total in addition to the main question above). The additional questions may be about any subject in the article and can be addressed to any or all of the candidates.

Divide the remaining students into four role-play groups, each representing one of the four candidates: Taft, Roosevelt, Wilson, and Debs. In their groups, they will discuss and prepare their answer to the main question above. To do so, they should thoroughly prepare their assigned candidate's position on tax policy (including tariffs), antitrust, conservation, workers' protections, the Senate, and any other relevant topics.

Each role-play group should then choose one member who will participate in the debate as a "fishbowl" activity (at the front of the classroom). One student from any of the groups will then switch to be the timekeeper for the debate.

Each candidate should be given at least one minute to answer each question asked of him or her.

Conduct the debate by first having the moderators ask each candidate the main question. Then, moderators ask their additional questions.

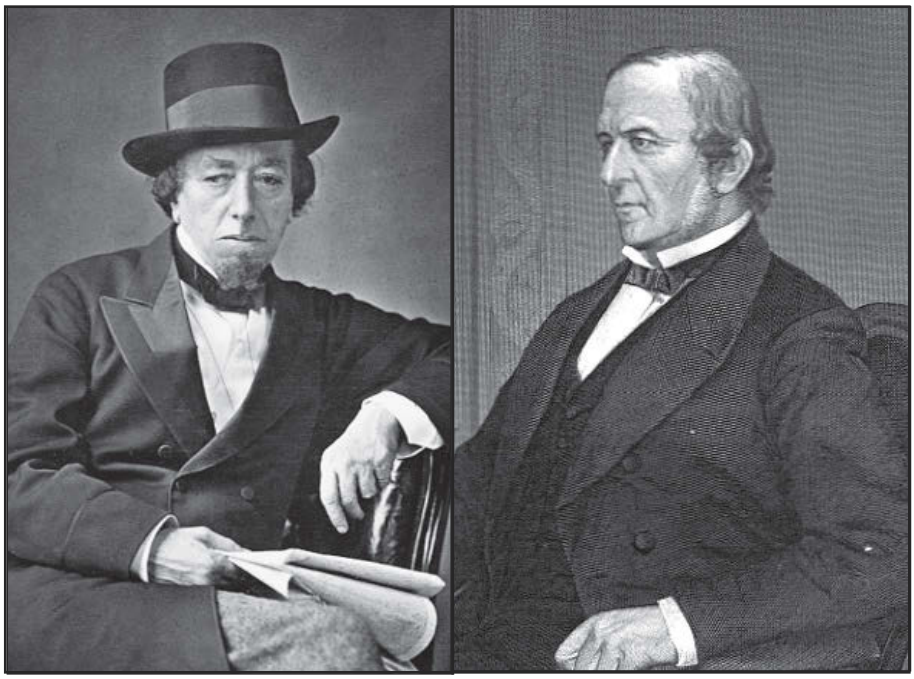
When all questions have been asked, moderators should briefly discuss and decide which candidate they think won the debate. They should report their answer and reasons to the class.

Debrief the debate. What stood out? Did any candidate persuade students to change their minds? Why?

Every student will then write their own answer to the main question in at least one well-developed paragraph.

THE GREAT RIVALRY: DISRAELI VS. GLADSTONE

Benjamin Disraeli and William Gladstone became great rivals in Parliament during the Victorian Era of great industrial and social changes. Disraeli, a Conservative, and Gladstone, a Liberal, each enacted major reforms.



Wikimedia Commons

Benjamin Disraeli and William Gladstone in the 1870s.

Benjamin Disraeli and William Gladstone had very different upbringings. Disraeli, born in London in 1804, was the son of a Jewish historian of modest income. Disraeli converted to Christianity at age 12 due to a dispute his father had with his local synagogue. He attended small private schools but never went to a university. Gladstone, born in Liverpool in 1809, was the son of a wealthy merchant and was a dedicated member of the Christian Church of England his entire life. Gladstone attended elite schools at Eton and Oxford.

Both men followed radically different career paths. Disraeli felt he was destined for greatness but was uncertain about a career. He traveled in Europe, got deeply into debt, and wrote romantic novels to earn money. He dressed like a "dandy," or highly fashionable man. He tried and failed four times to win election to the House of Commons in Parliament. On the other hand, Gladstone excelled at public speaking while at Oxford and quickly decided on a career in Parliament. He was elected to a seat in the House of Commons as a Conservative on his first try in 1832.

The Conservative Party Split

By the 1830s, the Industrial Revolution was forcing major changes in Great Britain. Big shifts in the population took place from farm to factory work and from rural to urban living. These economic and social changes led to demands for social and political reforms. However, when Queen Victoria took the throne of England in 1837, the political parties in Parliament were still focused mainly on the needs of the property-owning classes.

The Whig Party represented the wealthy estate-owning aristocratic families. The Whigs had more or less dominated both houses of Parliament, Commons and Lords, for hundreds of years. Whigs tended to be open-minded about reform, but favored slow, cautious change.

The strength of the Conservative Party centered on the large rural landowners whose wealth depended mainly on the grain production of farmers who rented their land. The Conservatives wanted to keep high tariffs (taxes) on imports of cheap foreign grain in order to maximize their profits. They were the defenders of tradition and the major institutions of British government: the monarchy, the Parliament, and the official Church of England.

A small unorganized faction in Parliament, called the Radicals, was mostly made up of wealthy industrialists, businessmen, and merchants. They fought the privileges of the aristocrats, the large rural landowners, and the companies favored by the government with licenses for monopolies. Above all, the Radicals wanted free trade with no tariffs on imports or exports. Many Radicals wanted voting rights for working-class men and the separation of the Church of England from the government.

Queen Victoria's rise to the throne in 1837 triggered a new election for the House of Commons. The Whig Party won a slight majority of the seats and formed a new government. However, Disraeli was elected to the House of Commons for the first time, and Gladstone was re-elected. Both were members of the Conservative Party.

In 1841, a new election resulted in a Conservative government that was formed by Robert Peel as Prime Minister. Gladstone looked upon Peel as his hero and mentor. Peel picked Gladstone for a government office but ignored Disraeli, who was greatly angered.

During the 1840s, poor harvests in England and a disease that ravaged the potato crop in Ireland caused a famine for many poor. In 1846, Prime Minister Peel broke with Conservative Party tradition and proposed to temporarily repeal tariffs on cheaper imported foreign grain and other goods to reduce prices and benefit the poor. Conservative landowners resisted Peel's proposal.

Disraeli now saw an opportunity to advance his own political ambition by undermining Peel. Giving up his dandy clothing to appear more mature, Disraeli launched a series of speeches in which he attacked Peel for abandoning the Conservative Party's long-held policy of protecting the income of landowners with import tariffs.

Peel finally won the vote in the House of Commons to repeal the tariff laws. But Disraeli's speeches and political maneuvering had weakened Peel's hold on his majority. This led to a vote of no confidence on another issue, which forced Peel and his government to resign. Disraeli was triumphant, but Gladstone was outraged.

The fight over repeal of the grain tariff laws resulted in a split in the Conservative Party. The protectionist Conservatives, led by Disraeli, wanted to continue the policy of tariffs. The "Peelites" within the party argued for free trade and a permanent end of tariffs. Soon the Peelites became a rival political party led by Gladstone.

Gladstone and the Liberal Party

For the next thirteen years, the Whigs, Conservatives, and Peelites formed weak governments that each did not last long. During this time, Disraeli and Gladstone often took turns as Chancellor of the Exchequer, an important office that prepared the annual national budget.

In 1856, Chancellor of the Exchequer Disraeli did a sloppy job presenting the Conservative government's budget to the Commons. Gladstone, now a Peelite leader, attacked him for his incompetence, causing the Conservative government to lose a vote of confidence. Gladstone enjoyed his revenge for Disraeli's role in bringing down Peel's government ten years earlier. Hatred between the two rivals grew.

In 1859, factions of Whigs, Radicals, and Peelites combined to form the Liberal Party. They hoped it would command a strong majority in the Commons.

Liberalism at this time in England strongly favored capitalism and foreign trade that were not burdened by heavy government regulations and taxes. Liberals spoke out for individual liberty and called for separating the Church of England from its ancient place in England's government. Most Liberals argued for expanding the right to vote for workingmen. In foreign affairs, they generally opposed the expansion of British imperialism and its costly wars.

Disraeli was triumphant, but Gladstone was outraged.

Gladstone joined the new party after the Conservative government lost a vote of confidence and was replaced by a Liberal government. Gladstone became Chancellor of the Exchequer.

At this time, Gladstone himself was undergoing major changes in his thinking from conservatism to liberalism. He no longer believed that the Church of England was the essential foundation of government. He became critical of British imperialism and sympathized with people like the Irish whom he said were "rightly struggling to be free" from English rule. He also saw the necessity of addressing the needs of British workers.

Gladstone was convinced that his free trade policy of ending import tariffs on cheaper foreign goods was the key to prosperity for all classes. The resulting lower prices soon made him popular with workingmen who flocked to hear his public speeches. The newspapers named him "The People's William."

Manhood Suffrage Reform

Parliament in 1832 had passed a moderate manhood suffrage (voting rights) reform law that granted the vote to more adult men. But complicated property and tax requirements, which differed between cities and the rural counties, still barred most men from voting.

In 1866, the Liberal government of Prime Minister John Russell proposed a new reform bill to expand manhood suffrage further. Gladstone, who led the Liberals in Commons, enthusiastically fought for this reform bill that would have extended the vote to 400,000 men, half of them workingmen.

During the debate, Disraeli opposed the bill, arguing that only the well-educated should vote. Gladstone attacked his foe. "You cannot fight against the future," he warned. "Time is on our side."

Disraeli flooded the bill with crippling amendments and worked successfully to convince some Liberals that the bill went too far. In the end, the bill failed, and the Liberal government resigned the next day. A Conservative government then took over with Disraeli once again as Chancellor of the Exchequer.

In 1867, Disraeli shocked everyone when he argued for a bold Conservative manhood suffrage reform bill. His chief motive was to undermine Gladstone by producing a manhood suffrage law that the Liberals could not deliver. Many Conservatives complained that increasing the vote of the lower classes would help the Liberals at the voting polls. But Disraeli persisted.

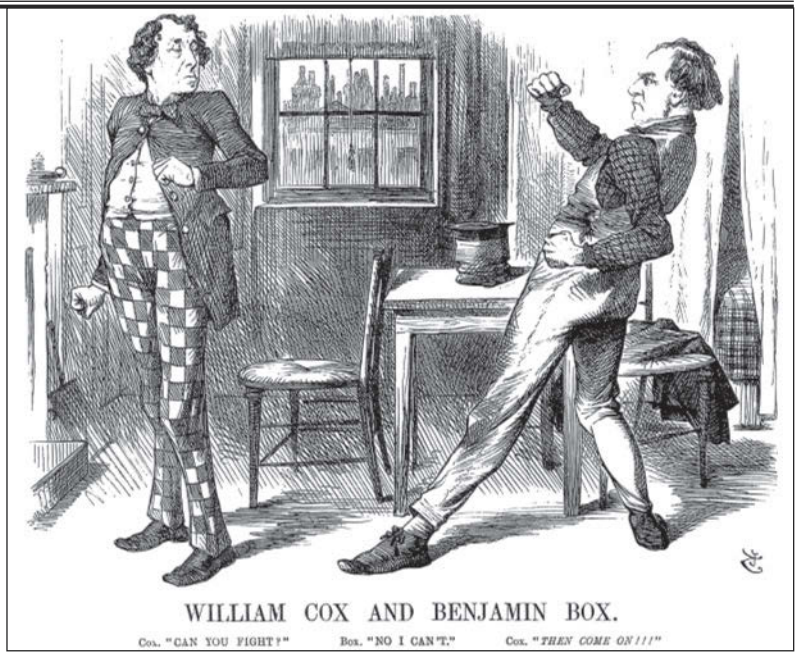
Disraeli and Gladstone now went to war over the Conservative bill. Gladstone attacked what he said ➤

were ten major flaws in the bill. Disraeli replied he was open to amendments, but would accept none from Gladstone.

Even though he lost some of the Conservatives, Disraeli compromised to gain enough Liberal votes for the bill by abandoning so-called "fancy franchises" that enabled certain highly educated persons to have two votes in an election. The bill finally passed the Commons and was approved in the House of Lords. Queen Victoria, who greatly favored Disraeli over Gladstone, was elated.

Disraeli's manhood suffrage reform doubled the number of male voters. But this was still only 16 percent of the adult male population. Disraeli gloated that it was a step to "extinguish Gladstone & Co."

In 1868, Conservative Prime Minister Edward Stanley resigned because of illness, and Disraeli stepped up for the first time as the Conservative prime minister. "I have climbed to the top of the greasy pole," he rejoiced.



Punch Magazine/Wikimedia Commons

This cartoon makes reference to a comic opera of 19th century England, *Cox and Box*, in which two lodgers are tricked into renting the same room and argue with each other.

Disraeli now attempted to rebuild the Conservative Party as the national majority party. Finding that free trade improved the economy, he switched sides on the protectionist tariff debate, convinced that his flip-flop would persuade workingmen to vote Conservative at election time.

Disraeli began to instruct the members of his party that Conservatives should not resist reforms as long as they upheld "the manners, the customs, the laws, and the traditions of [the British] people." By traditions he meant the monarchy, Church of England, Parliament, British Empire, and aristocracy. He added that Conservatives should also improve "the condition of the people."

The Great Rivalry

Prime Minister Disraeli's government lasted only a year. But he was able to enact reforms to stop corrupt elections, end public executions, and improve public health.

The election of 1868 put the Liberals back in power with Gladstone as prime minister for the first time. He enacted major Liberal reforms:

- free primary schooling for all children
- voter secret ballots in all elections
- abolition of buying army officer commissions
- abolition of the requirement test that students applying for admission to Oxford and Cambridge universities be Church of England members

For nearly thirty years since the Peelite split, the Conservative Party was either out of power or formed governments that depended on the votes of Whig and Liberal members of Parliament to stay in power. In 1874, with the help of middle class rather than workingmen voters, the Conservatives won their first solid victory with a majority of seats in the House of Commons. Disraeli returned as prime minister.

Disraeli with his majority in the Commons succeeded in overseeing many Conservative reforms such as:

- regulations to improve housing conditions
- regulations to better working conditions in factories
- regulations to assure food and drug safety
- regulations to control river pollution
- laws confirming the legal status of labor unions and the right of them to organize peaceful picketing during strikes

Another point of hostility between Disraeli and Gladstone concerned their relationship with Queen Victoria. She despised Gladstone but adored Disraeli. He flattered her and fulfilled her wish for Parliament to make her Empress of India, the crown jewel of English colonies. She then made him the Earl of Beaconsfield. This meant he moved from the House of Commons to the House of Lords, but still remained prime minister.

Now in his 70s and slowing down due to illness, Disraeli focused mainly on foreign affairs. In 1878, he attended the Congress of Berlin. His highly regarded reputation as a British leader helped him prevent war between Turkey and Russia. Disraeli came back home a hero, but soon had to deal with setbacks in colonial wars, a poor harvest, and an economic depression.

The election of 1880 was the last time Disraeli and Gladstone faced each other in political combat. Gladstone experimented with a new campaign tactic that

took advantage of his superior public speaking skills. He spoke to huge crowds of workingmen as a champion of the people and against the evils of "Beaconsfieldism" in all parts of the country, not just to people in his own voting district. His speeches became a sensation and were heavily covered in the newspapers. Disraeli was hobbled by illness and the custom of members of the House of Lords not to campaign in elections.

Gladstone's Liberals won a strong majority in the Commons. He called it "A great election of God," and once again become prime minister. Disraeli referred to Gladstone as "that unprincipled maniac."

In 1881, Disraeli died at age 76. Most of London's elite, including some royalty, attended his funeral. Gladstone did not.

The Great Rivalry was over. But Gladstone went on to become prime minister two more times, a total of four and the most of any politician in British history. In 1884, he succeeded in enacting a new manhood suffrage law that enabled 60 percent of adult men to vote. However, full manhood and women suffrage did not take place until 1918, long after his time.

Gladstone's unsuccessful fight for Irish Home Rule, a step toward independence from Great Britain, was ahead of its time and failed due to a split in the Liberal Party. He retired from politics in 1894, still ranting about Disraeli as "that grand corrupter." Gladstone died in 1898 at age 88.

DISCUSSION & WRITING

1. Contrast Disraeli's conservatism with Gladstone's liberalism.
2. How did Disraeli and Gladstone both attempt to appeal to the property-less working classes?
3. Do you think "The Great Rivalry" of Disraeli and Gladstone was good or bad for Great Britain? Why?

ACTIVITY: The Greatest Victorian Prime Minister

1. A Parliament committee has been formed to approve a monument in London's Hyde Park to recognize the "Greatest Prime Minister of the Victorian Era." The nominees are Benjamin Disraeli and William Gladstone.
2. Divide the class into three groups:
   a) One group will research the article, sketch a monument, and prepare a presentation to Parliament committee on behalf of Disraeli.
   b) Another group will do the same for Gladstone.
   c) The third group will play the role of the Parliament committee that will discuss and then decide whether the monument should be dedicated to Disraeli or Gladstone.

About Constitutional Rights Foundation

Constitutional Rights Foundation is a non-profit, non-partisan educational organization committed to helping our nation's young people to become active citizens and to understand the rule of law, the legal process, and their constitutional heritage. Established in 1962, CRF is guided by a dedicated board of directors drawn from the worlds of law, business, government, education, and the media. CRF's program areas include the California State Mock Trial, youth internship programs, youth leadership and civic participation programs, youth conferences, teacher professional development, and publications and curriculum materials.

EDWARD SNOWDEN, THE NSA, AND MASS SURVEILLANCE

Edward Snowden worked as a computer systems contractor for the National Security Agency (NSA), which collects intelligence information for U.S. spy agencies. In 2013, Snowden gave journalists thousands of secret NSA documents. They revealed mass surveillance of terrorist suspects and of innocent Americans as well.

Created in 1952, the NSA monitors, collects, and analyzes foreign spy information, or "intelligence" on suspected enemies of the United States. Those who work for the NSA must have a security clearance and promise never to reveal the NSA's secrets.

To correct certain abuses by the Central Intelligence Agency (CIA) in the 1960s and 70s, Congress passed the Foreign Intelligence Surveillance Act of 1978 (FISA). FISA set up monitoring of the NSA, CIA, and other intelligence agencies so that they would target foreign threats, not American citizens.

The FISA law also established a secret Foreign Intelligence Surveillance Court to which intelligence agencies could seek permission to conduct surveillance and collect information from foreign suspects. The Chief Justice of the U.S. Supreme Court appoints the FISA Court's 11 judges. A special court can review the FISA Court's decisions.

In 1979, the U.S. Supreme Court decided that law-enforcement agencies did not need a search warrant to get the phone numbers called by criminal suspects. The Supreme Court ruled that phone callers had "no reasonable expectation of privacy" in numbers dialed into a telephone. Today, phone numbers, dates, and the duration of phone calls are called "metadata" and do not include the actual content of conversations.

Following the terrorist attacks on September 11, 2001, the NSA and other intelligence agencies shifted from investigation of criminal suspects to *prevention* of terrorist attacks and were desperate to improve their use of technology. Within days of 9/11, Congress passed the USA PATRIOT Act (Patriot Act), which greatly increased the NSA's surveillance powers.

Who Is Edward Snowden?

Between 2006 and 2012, Edward Snowden, a young high school dropout and computer whiz, worked for the CIA as well as major tech contractors for the NSA. He maintained computer systems and received security clearance which gave him access to secret documents. He says that while working at a secret NSA facility in Hawaii, he first complained to supervisors about the NSA's "illegal activities," but that they ignored his complaint.

The Wikileaks Channel/Wikimedia Commons (CC BY 3.0)

Edward Snowden in Moscow, Russia, October 2013.

Later, at the same Hawaii facility, he persuaded coworkers to let him borrow their passwords and without their knowledge copied secret NSA documents onto laptop hard drives. Snowden believed the U.S. was violating the privacy rights of American citizens as well as international law.

In December 2012, Snowden anonymously contacted a few journalists and passed on to them samples of secret NSA documents. In May 2013, Snowden met his contacts in Hong Kong, where he identified himself for the first time and handed them the thousands of NSA documents he had copied.

On June 5, *The Guardian* newspaper in London published the first of numerous articles and documents that revealed many secret mass surveillance programs. Soon American newspapers, such as the *New York Times*, began to publish material from the "Snowden leaks."

Snowden, now age 29, planned to seek political asylum in South America. But the U.S. had suspended his passport so he could not fly any further than Russia, which granted him temporary asylum and later extended it to three years.

At the Moscow airport, Snowden made his first statement to the world's press about what motivated him:

> I did what I believed right and began a campaign to correct this wrongdoing. I did not seek to enrich myself. I did not seek to sell U.S. secrets. I did not partner with any foreign government to guarantee my safety. Instead, I took what I knew to the public, so what affects all of us can be discussed. . . .

What Did Snowden Reveal?

The public learned from Snowden's leaks that between 2001 and 2006, President George W. Bush secretly authorized the NSA to collect the phone metadata of virtually all Americans, or "bulk collection" of metadata. The idea was to amass a government database that the NSA could search by linking the phone number of a suspected foreign terrorist to other numbers in a chain of phone calls to help NSA agents identify a potential terrorist network. They were unable to do this before 9/11. The NSA said it destroyed any metadata collected of innocent Americans.

The public also learned that in 2006 President Bush handed over the job of the bulk collection of metadata to the secret FISA Court. The FISA Court had to have legal authority to do this and found it in Section 215 of the Patriot Act, which authorized the FBI to apply for FISA Court orders on behalf of the NSA to produce "tangible things" relevant to an approved foreign intelligence investigation.

The FISA Court interpreted producing "tangible things" to mean a blanket court order for bulk collection of metadata rather than issuing individual search warrants typically required under the Fourth Amendment. The FISA Court also relied on the ruling of the 1979 Supreme Court that people had no reasonable expectation of privacy in phone numbers called.

After his election, President Obama continued the NSA's bulk collection program. The FISA Court has rarely turned down an intelligence agency application for a surveillance order or search warrant. One reason may be that only the government was permitted to make its case before a FISA Court judge. No opposing side was allowed to challenge an application for a surveillance order.

Snowden's stunning leaks caused many people to criticize the previously secret NSA surveillance programs . . . .

Snowden also gave to *The Guardian* a copy of the secret FISA Court order of May 24, 2013, that directed Verizon to give the NSA metadata of all its customers. The revelation set off a firestorm of protest.

In addition, Snowden unveiled NSA's PRISM program, which collected the *content* of emails, photos, and other media from the servers of nine Internet service companies (Microsoft, Google, Apple, Yahoo, AOL, Facebook, YouTube, Skype, and Paltalk). This surveillance program was limited to individuals "sharing content" with a terrorist suspect "reasonably believed to be located outside the United States." PRISM surveillance required approval of the FISA Court but not of the Internet service companies.

Snowden's documents showed that the NSA collected other data in its search for terrorists outside and inside the U.S., including Internet usage, transactions at commercial websites, health and financial records, publicly posted social media, GPS location of individuals, and Google Map searches. FISA Court orders or Fourth Amendment search warrants were sometimes needed, sometimes not.

Snowden also revealed that the NSA spied on friendly nations. The NSA listened in on the phone calls of some of America's allies, which caused an angry reaction abroad, embarrassing the U.S. government.

Reaction to Snowden's Leaks

Snowden's stunning leaks caused many people to criticize the previously secret NSA surveillance programs, which only a few in the government knew existed. Many were outraged over what they saw as violations of the Fourth Amendment. Internet service companies protested how they were being used by the NSA to scoop up data on their customers.

Snowden's revelations forced the government to defend its surveillance programs. Defenders assured Americans everything was legal and approved by Congress, the president, and the FISA Court. No evidence has turned up that the NSA intentionally invaded the privacy of innocent U.S. citizens. But neither has evidence revealed that the bulk collection program stopped any terrorist attack against the United States.

Snowden, remaining in Russia, was celebrated as a hero by his many supporters and condemned by those who called him a criminal. President Obama expressed concern about leaks of secrets: "If any individual who objects to government policy can take it in their own hands to publicly disclose information, then we will not be able to keep our people safe. . . ."

The U.S. Justice Department quickly charged Snowden with stealing government property and two violations of the Espionage Act.

Damage From Snowden's Disclosures

While most of the immediate controversy over Snowden's massive leaks of secret NSA documents focused on privacy violation claims, another issue arose about how his leaks damaged national security. Michael Hayden, a former director of the NSA and CIA, warned that the Snowden leaks will let terrorists know about U.S. intelligence "tactics, techniques, and procedures."

Director of Intelligence James Clapper reported that showing our adversaries the NSA's programs damaged America's ability to prevent another 9/11. "This is the most destructive [bleeding] of American secrets in history," he declared, "and very few of them had anything to do with American privacy."

The Snowden leaks also revealed information about the spying methods of U.S. allies. Britain's Home Secretary, Theresa May, argued that Snowden's leaks caused intelligence damage around the world. For example, "safe houses" used by British spies had been identified, putting them at risk. She added that the Islamic State had even made a video with tips drawn from the Snowden leaks on how to avoid detection.

In December 2013, the Department of Defense (Pentagon) completed a top secret report on the impact of the leaks. The Pentagon declassified 12 pages for release to the public in May 2014, but most of the text was blocked out of caution that details might give sensitive information to terrorists.

National Security Agency

The National Security Operations Center (NSOC) floor in 2012. NSOC is part of the NSA and maintains constant monitoring of intelligence information.

The censored report stated that the Pentagon assessed that the Snowden leaks will have "a grave impact on U.S. national defense." The report concluded: "The scope of the compromised knowledge related to U.S. intelligence capabilities is staggering."

House of Representatives Intelligence Committee Chairman Mike Rogers read the complete uncensored Pentagon report. He said, "The report confirms my greatest fears — Snowden's real acts of betrayal place America's military men and women at greater risk."

Others point out that the public and the press have not been provided details about the damage from Snowden's disclosures. It is hard to assess, they say, whether the disclosures actually caused any damage at all. Britain's Business Secretary Vince Cable said that even though a "large amount of genuinely important intelligence material" was disclosed, the disclosures emphasize a need for "proper political oversight of intelligence services." NSA Director Admiral Michael S. Rogers also downplayed the damage caused by Snowden, saying in 2014 that he did not believe "the sky is falling." He wanted the NSA to get "out of the data-retention business" altogether.

The USA FREEDOM Act

In January 2014, after considering reforms made by his own study commission, President Obama proposed that Congress keep the bulk collection metadata program, but put possession of its huge database in the hands of a non-government party like the telephone companies. Congress debated these and other issues raised by Snowden's disclosures. Some members of Congress wanted to keep the metadata program as it was. Others called for it to be eliminated.

On June 2, 2015, Congress passed the USA FREEDOM Act (Freedom Act), a compromise that President Obama promptly signed into law that included key reforms. Under the new law, the NSA could no longer collect metadata but could gain access to the records stored by telephone companies through a FISA Court order if it could show it had a "reasonable articulable suspicion" that certain metadata was linked to terrorism. Phone companies would destroy metadata after 18 months. Advocates with security clearance could raise issues of privacy or civil liberties before the FISA Court, and significant rulings of the FISA Court must be made public.

Snowden: Criminal or Hero?

Snowden and his supporters call him a "whistleblower." This is usually a government employee who makes public some sort of government wrongdoing. Laws protect whistle-blowers with access to secret information from criminal prosecution. These laws, however, require whistle-blowers to report their concerns to the intelligence agencies' inspector general or to members of the intelligence committees of Congress. Snowden did not do this.

Snowden said he believed he was not protected as a whistle-blower because he was a contractor for a private company, not a government employee. The law is not clear how much protection Snowden would have had if he had followed the correct procedure.

Snowden succeeded in provoking a major debate over America's mass surveillance programs. Did the NSA endanger the right to privacy, or was it just doing its job to keep Americans safe? The compromise Freedom Act seemed to answer yes to both questions. But what should we do about Snowden, who started the whole controversy? Is he a criminal or a hero?

DISCUSSION AND WRITING

1. Did the NSA endanger the right of privacy, or was it just doing its job to keep Americans safe? Use evidence from the article to support your answer.
2. David Frum, senior editor of *The Atlantic* magazine, wrote a year after the Snowden leaks: "We live in a world of predators. A democratic state too gentlemanly to learn all it can about potential threats is a state that has betrayed its most-fundamental responsibilities to the people it exists to safeguard." Put Frum's argument in your own words. Do you agree or disagree with him? Why?
3. Reflect on your answer to Question #2 above. Are there limits to how far a democratic state can go in collecting information about its citizens before the collection becomes too invasive into citizens' reasonable expectations of privacy? If so, what are those limits?
4. Do you think the Freedom Act went too far, not far enough, or was about right in controlling the NSA and its mass surveillance programs? Use evidence from the article to support your answer.

ACTIVITY: Snowden: Criminal or Hero?

Edward Snowden says he wants to return to the U.S. If he ever returns, he will undoubtedly have to face the consequences of his actions. Below are a number of alternative consequences that some have suggested. Which one of these do you think is the best?

1. Each student will choose one of the consequences for Snowden's actions and write a brief essay, defending it by using information provided in the article.
2. Students will then meet in small groups to argue for their choices.
3. The groups will report the results of their discussions to the class.
4. Finally, the class will vote on which consequence is the best.

Consequences for Snowden's Actions

A. Prosecution by the U.S. Justice Department

The Justice Department has charged Snowden with stealing government property and two counts of violating the Espionage Act: (1) "unauthorized communication of national defense information" and (2) "willful communication of classified communication intelligence information to an unauthorized person." The combined penalties for these acts amount to 30 years in prison.

B. Prosecution for Treason

In 2014, Secretary of State John Kerry declared, "He is a traitor. And he has betrayed his country. And if he wants to come home to face the music, he can do so." Art. III, Sec. 3, of the Constitution defines treason: "Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them Aid and Comfort." Conviction for treason carries the possibility of the death penalty.

C. A Strong But Not Too Harsh Prison Sentence

Josh Barro, writing for *Business Insider,* took a middle position: "If Snowden's disclosures had been tightly limited to information about how U.S. intelligence agencies collect private information about Americans, I'd be more sympathetic to calls to let him off. And I still don't think he needs to be executed or imprisoned for life; a long sentence signifying the severity of his crimes, perhaps 15 years, would satisfy me. . . . The sentence. . . has to be long enough to deter future Snowdens from leaking."

D. Clemency

Clemency calls for leniency such as a reduction of a prison term. In an editorial, the *New York Times* wrote, "It is time for the United States to offer Mr. Snowden a plea bargain or some form of clemency that would allow him to return home, face at least substantially reduced punishment in light of his role as a whistle-blower, and have the hope of a life advocating for greater privacy and a far stronger oversight of the runaway intelligence community."

E. A Partial Pardon

Conor Friedersdorf, writing in *The Atlantic,* argued, "Snowden undeniably violated his promise to keep the NSA's secrets. But doing so was the only way to fulfill his higher obligation to protect and defend the Constitution, which was being violated by an executive branch exceeding its rightful authority. . . . This analysis pertains only to the leaked documents that exposed the phone [bulk metadata] dragnet, not the whole trove [collection] of Snowden's leaks, but with respect to that one set of documents there ought to be unanimous support for pardoning his disclosure.

F. A Full Pardon

The White House has a program for submitting petitions to the government. The following petition was submitted days after the Snowden leaks appeared in the press: "Edward Snowden is a national hero and should be immediately issued a full, free, and absolute pardon for any crimes he has committed or may have committed related to blowing the whistle on secret NSA surveillance programs."

Standards Addressed

The Election of 1912

National High School U.S. History Standard 20: Understands how Progressives and others addressed problems of industrial capitalism, urbanization, and political corruption. (1) Understands the origins and impact of the Progressive movement (e.g., social origins of Progressives and how these contributed to the success and failure of the movement; Progressive reforms pertaining to big business, and worker's and consumer's rights; arguments of Progressive leaders).

California H-SS Standard 11.2: Students analyze the relationship among the rise of industrialization, large-scale rural-to-urban migration, and massive immigration from Southern and Eastern Europe. (9) Understand the effect of political programs and activities of the Progressives (e.g., federal regulation of railroad transport, Children's Bureau, the Sixteenth Amendment, Theodore Roosevelt . . . .)

Edward Snowden, the NSA, and Mass Surveillance

National High School Civics Standard 18: Understands the role and importance of law in the American constitutional system and issues regarding the judicial protection of individual rights. (1) Understands how the rule of law makes possible a system of ordered liberty that protects the basic rights of citizens. (5) Understands how the individual's rights to life, liberty, and property are protected by the trial and appellate levels of the judicial process and by the principal varieties of law (e.g., constitutional, criminal, and civil law).

National High School Civics Standard 25: Understands issues regarding personal, political, and economic rights. (1) Understands the importance to individuals and to society of personal rights such as freedom of thought and conscience, privacy and personal autonomy, and the right to due process of law and equal protection of the law. (2) Understands contemporary issues that involve political rights such as access to classified information . . . . (6) Understands how personal, political, and economic rights are secured by constitutional government and by such means as the rule of law, checks and balances, an independent judiciary, and a vigilant citizenry

National High School Civics Standard 26: Understands issues regarding the proper scope and limits of rights and the relationships among personal, political, and economic rights. (2) Understands different positions on a contemporary conflict between rights such as one person's right to free speech versus another person's right to be heard.

California H-SS Standard 12.2: Students evaluate and take and defend positions on the scope and limits of rights and obligations as democratic citizens, the relationships among them, and how they are secured. (1) Discuss the meaning and importance of each of the rights guaranteed under the Billof Rights and how each is secured (e.g., freedom of religion, speech, press, assembly, petition, privacy). (3) Discuss the individual's legal obligations to obey the law . . . .

The Great Rivalry: Disraeli vs. Gladstone

National High School World History Standard 35: Understands patterns of nationalism, state-building, and social reform in Europe and the Americas from 1830 to 1914. (3) Understands factors that led to social and political change in 19th-century Europe (e.g., the interconnections between labor movements, various forms of socialism, and political or social changes in Europe; the influence of industrialization, democratization, and nationalism on popular 19th-century reform movements; the extent to which Britain . . . [became] broadly liberal and democratic societies in the 19th century; the broad beneficial and detrimental effects of the industrial revolution on specific European countries).

California H-SS Standard 10.3: Students analyze the effects of the Industrial Revolution in England, France, Germany, Japan, and the United States. (1) Analyze why England was the first country to industrialize.

California H-SS Standard 12.9: Students analyze the origins, characteristics, and development of different political systems across time, with emphasis on the quest for political democracy, its advances, and its obstacles. (2) Compare the various ways in which power is distributed, shared, and limited in systems of shared powers and in parliamentary systems, including the influence and role of parliamentary leaders (e.g., William Gladstone . . . .)

Common Core State Standards

Standards marked "11-12" pertain to "The Election of 1912" and "Edward Snowden, the NSA, and Mass Surveillance." Standards marked "9-10" pertain to "The Great Rivalry: Disraeli vs. Gladstone."

ELA-Literacy.SL.11-12/9-10.1: Initiate and participate effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on grades 11-12/9-10 topics, texts, and issues, building on others' ideas and expressing their own clearly and persuasively.

ELA-Literacy.SL.9-10.1.d: Respond thoughtfully to diverse perspectives, summarize points of agreement and disagreement, and, when warranted, qualify or justify their own views and understanding and make new connections in light of the evidence and reasoning presented.

ELA-Literacy.SL.11-12.1.d: Respond thoughtfully to diverse perspectives; synthesize comments, claims, and evidence made on all sides of an issue; resolve contradictions when possible; and determine what additional information or research is required to deepen the investigation or complete the task.

ELA-Literacy.SL.11-12.3: Evaluate a speaker's point of view, reasoning, and use of evidence and rhetoric, assessing the stance, premises, links among ideas, word choice, points of emphasis, and tone used.

ELA-Literacy.SL.9-10.6: Adapt speech to a variety of contexts and tasks, demonstrating command of formal English when indicated or appropriate. (See grades 9-10 Language standards 1 and 3 . . . for specific expectations.)

ELA-Literacy.SL.11-12.6: Adapt speech to a variety of contexts and tasks, demonstrating a command of formal English when indicated or appropriate. (See grades 11-12 Language standards 1 and 3 . . . for specific expectations.)

ELA-Literacy.RH.9-10.1: Cite specific textual evidence to support analysis of . . . secondary sources, attending to such features as the date and origin of the information.

ELA-Literacy.RH.9-10.2: Determine the central ideas or information of a . . . secondary source; provide an accurate summary of how key events or ideas develop over the course of the text.

ELA-Literacy.RH.9-10.4: Determine the meaning of words and phrases as they are used in a text, including vocabulary describing political, social, or economic aspects of history/social science.

ELA-Literacy.RH.9-10.10: By the end of grade 10, read and comprehend history/social studies texts in the grades 9-10 text complexity band independently and proficiently.

ELA-Literacy.RH.11-12.1: Cite specific textual evidence to support analysis of . . . secondary sources, connecting insights gained from specific details to an understanding of the text as a whole.

ELA-Literacy.RH.11-12.2: Determine the central ideas or information of a primary or secondary source; provide an accurate summary that makes clear the relationships among the key details and ideas.

ELA-Literacy.RH.11-12.4: Determine the meaning of words and phrases as they are used in a text, including analyzing how an author uses and refines the meaning of a key term over the course of a text (e.g., how Madison defines *faction* in *Federalist* No. 10).

ELA-Literacy.RH.11-12.10: By the end of grade 12, read and comprehend history/social studies texts in the grades 11-CCR text complexity band independently and proficiently.

ELA-Literacy.WHST.11-12/9-10.1: Write arguments focused on *discipline-specific content*.

ELA-Literacy.WHST.11-12/9-10.2: Write informative/explanatory texts, including the narration of historical events . . . .

ELA-Literacy.WHST.11-12/9-10.4: Produce clear and coherent writing in which the development, organization, and style are appropriate to task, purpose, and audience.

ELA-Literacy.WHST.11-12/9-10.7: Conduct short as well as more sustained research projects to answer a question (including a self-generated question) or solve a problem . . . .

ELA-Literacy.WHST.11-12/9-10.10: Write routinely over extended time frames (time for reflection and revision) and shorter time frames (a single sitting or a day or two) for a range of discipline-specific tasks, purposes, and audiences.

Civic Action Project Launches #AsktheNextPrez!

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CRF's Civic Action Project (CAP) is launching the *Ask the Next Prez* (#AsktheNextPrez) campaign! Students record 30-second videos about issues they care about, and ask the next president what he or she will do about those issues. They post these questions on social media, and who knows? They may get the attention of the next president of the USA.

To find out more, go here:

www.crfcap.org/askthenextprez

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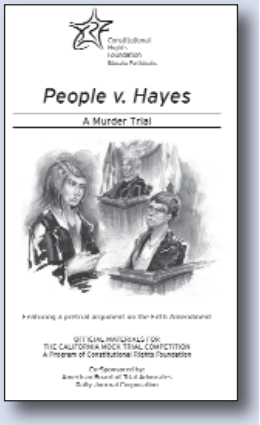
CRF started the state-wide mock trial program in 1971 with only 100 schools. With the help of county coordinators, the program quickly expanded across the state reaching 34 counties. Now the program has the privilege of serving 450 schools and impacting 10,000 students annually.

We at CRF are grateful to all the people who have been passionately involved in California Mock Trial, as participating students, attorney-volunteers, teacher-coaches, and county coordinators. It is people across the state who make California Mock Trial one of the best mock trial programs in the nation. On behalf of CRF, we thank you all for 35 years of participation and support and look forward to celebrating many more anniversaries together.



This year's case, *People v. Hayes*, was named for the longtime editor of *Bill of Rights in Action,* Bill Hayes, who retired from CRF in 2015. Bill also helped develop each year's Mock Trial case for the last 24 years.

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