

Volume 3 Spring 2009

This newsletter is a publication of the Constitutional Rights Foundation Chicago and was developed with support from the Grand Victoria Foundation.

In this Issue:

New President, New Policies

Closing Guantanamo and the NIMBY Factor

Insights from Research:
Vocabulary Teaching and Learning

Teacher's Corner

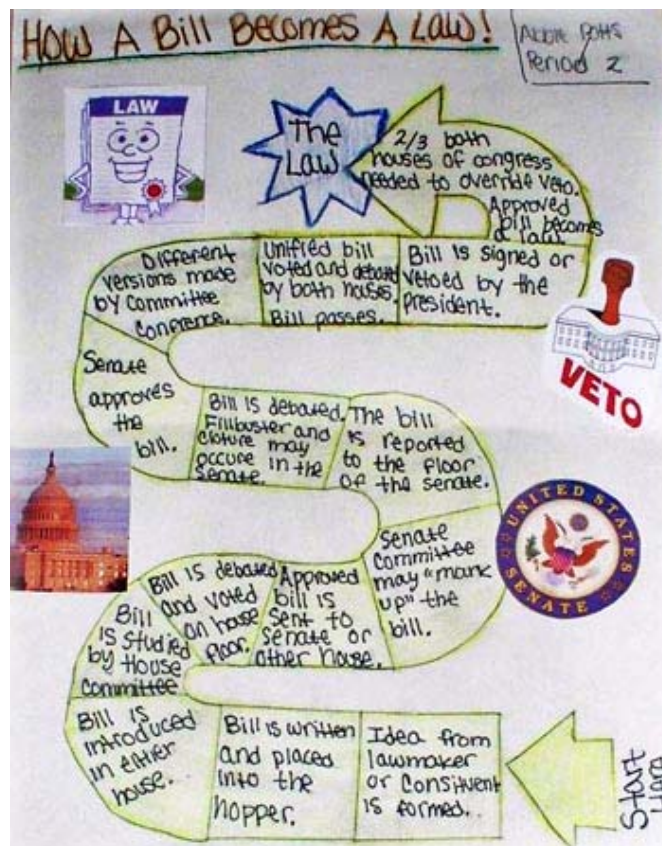
Curriculum Developer:
Laurel Singleton

For more information, contact:

Marlene Stanley
TLC Project Director
Constitutional Rights Foundation Chicago
312-663-9057
stanley@crfc.org

To learn more about MPU, go to our website at:

www.crfc.org/programs/mpu.php



Welcome to the third issue of *Teaching and Learning about the Constitution: More Perfect Union Newsletter*.

To meet our goal of providing middle-level teachers with grade-level-appropriate readings on “hot topics” related to the U.S. Constitution and government, this issue looks at how a new president attempts to put his (or her) policies in place. We look particularly at President Obama’s use of executive orders to reverse his predecessor’s policies on what to do with people detained in the war on terror. We also focus on the president’s recent remarks about food safety and his plans for increasing the safety of our food supply, plans that will require collaboration with Congress.

While current events in the executive branch—the election, inauguration, and efforts of the new president to implement his policies—have captured our attention in the MPU newsletter this year, the More Perfect Union curriculum places equal weight on the legislative and judicial branches. The student work shown above, demonstrating student understanding of the legislative process by creating graphic organizers, was produced in an MPU lesson taught by Jason Davids at Eastview Middle School in U-46.

All U-46 teachers using the MPU curriculum are invited to submit student work to be featured at two community displays in Elgin in the month of May. Please send work to Marlene Stanley (see contact information at left). We hope to include some of this work and stories of teachers’ experiences using MPU in the final issue of the MPU newsletter in May. We will also provide a summer reading list of books with civic/Constitution-related content in that issue.

New President, New Policies

Imagine that you have just been sworn in as the new president of the United States. The person you are replacing belonged to the other party. You did not like many of his policies. In addition, the country has some serious problems you need to address. You want to put your own ideas in place. How will you do it?

A new president can make some changes on his (or her) own. He can do that by issuing executive orders. An **executive order** is a directive from the president. As the head of the executive branch, the president is in charge of implementing the laws passed by Congress. Executive orders tell the Cabinet departments how to implement the laws. According to the Supreme Court, an executive order must clarify or act to advance a law put forth by the Congress or the Constitution.

The President can issue an executive order to make sure the law of the land is enforced. The law of the land can be found in the Constitution, in laws made by Congress, and in Supreme Court rulings that decide if an action or law violates the Constitution.

Other changes require that new laws be passed. As you know, Congress must pass new laws. Thus, to make some changes, a new president must work with Congress. This can be a challenging task.

Since President Obama was sworn in on January 20, he has worked to put his ideas in practice. He has issued executive orders and worked with Congress. Let's look at some of the changes President Obama has tried to make in his first two months in office. We will focus on a few executive orders.

Guantanamo Bay

On his second full day in office, the president issued several executive orders. One said that the detention facility at Guantanamo Bay would be closed within a year. Guantanamo Bay is a naval base in southeastern Cuba.

Since 2002, it has been used as a prison. As many as 680 persons have been held there. These people, both U.S. citizens and foreigners, are suspected of terrorism. The Bush administration called them **enemy combatants**, a new term. (The Obama administration has said they will not use the term.)

In signing the Guantanamo Bay order, President Obama said he was ending the "false choice between our safety and our ideals." What ideals was he talking about? One is the right to a **writ of habeas corpus**.

The writ of habeas corpus ("you have the body" in Latin) protects persons from being captured or held by the government without a reason. A writ is a written order of the court. When a judge issues a writ of habeas corpus, it requires the government and the person held prisoner to appear before the court. It also requires the government to explain why it is

holding the person. If the court isn't satisfied with the explanation, it can free the prisoner. Thus, habeas corpus is an important check on the executive power of the government.

Habeas corpus was a right in England. (See Box A for an example of why the right became so important to the English.) The American colonists also believed in the importance of this right, too.

When the U.S. Constitution was written, habeas corpus was one of the few rights discussed in the body of the Constitution. Article I says, "The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in cases of Rebellion or Invasion the public safety may require it."

How is this right related to Guantanamo Bay? Then-President Bush said enemy combatants could be denied access to U.S. courts because he believed public safety required it and according to the Constitution he could suspend habeas corpus. Enemy combatants, he said, had no right to a writ of habeas corpus. Many enemy combatants were held for years without charges being filed. They had no access to an attorney. In fact, they had no access to any persons on the "outside." The prison camp was put at Guantanamo because the administration did not think the rights under the Constitution extended to the island of Cuba.

People acting on behalf of the detainees filed lawsuits challenging the government's actions. Between 2004 and 2008, the Supreme Court decided several cases about the habeas rights of detainees at Guantanamo Bay.



The Supreme Court of the United States

Here are the results of three Supreme Court cases:

- In ***Rasul v. Bush***, the Court ruled that the writ of habeas corpus applied not to the prisoners, but the government officials holding them. Since those officials were operating in a U.S.-controlled area, they were required to respond to a writ.
- In ***Hamdi v. Rumsfeld***, the Court ruled that a detained U.S. citizen had the right to know the charges against him/her and the evidence supporting those charges.
- In ***Boumediene v. Bush***, the Court again decided in favor of the detainees. It said the detainees had the right to habeas corpus under the Constitution.

Habeas corpus was not the only problem associated with the detention facility, but it is a good example of the way in which President Bush tried to balance safety and liberty. President Obama wants to change that balance.

Think about these questions. Then discuss them with your class.

- What is habeas corpus? How did this privilege become part of American tradition?
- Why would the government want to suspend habeas corpus in wartime? In your opinion, which branch of government should decide?
- How would you summarize the Supreme Court's rulings on habeas protection for enemy combatants? Do you agree with the Court's decisions?
- Do you think closing the detention facility at Guantanamo Bay is a good change in policy? Why or why not?
- Why do you think the president can make this change through executive order?

Closing Guantanamo and the NIMBY Factor

On Thursday, January 22, President Obama signed three executive orders. The first announced that the Guantanamo Bay facility would be closed within one year. The second banned the use of torture. The third set up a task force to review what should be done with people detained in the war on terror.

The question of what to do with the 240 detainees still at Guantanamo Bay quickly set off controversy. Many responses were NIMBY replies. NIMBY stands for "Not In My Backyard." In other words, people do not want possible terrorists to come to prisons in their communities.

Some members of Congress acted to keep Guantanamo prisoners out of their states. For example, Representative Duncan Hunter (R-California) introduced a bill to keep detainees out of military facilities near San Diego. Representatives from Kansas, South Carolina, and Louisiana introduced similar bills.

Representative Bill Young (R-Florida) explained his concern simply: ". . . they're dangerous," he said. Others said they were afraid U.S. prisons would become targets for attacks.

Not everyone took the NIMBY approach. A spokesperson for Colorado Governor Bill Ritter said that he wouldn't oppose moving detainees to Colorado. The Supermax prison in Colorado was built for "the worst of the worst." Several convicted terrorists are already serving time there. Representative John Murtha (D-Pennsylvania) said terrorists would be no more dangerous in secure U.S. prisons than they are in Cuba. "There are thousands of dangerous prisoners being held securely behind bars in supermax prisons across the United States," he said.

There is also a question about the detainees who are being judged not dangerous. The government plans to release them. But it must find a country that will take them.

The task force appointed by President Obama will recommend what should happen to the detainees still at Guantanamo Bay. Imagine you are a member of the task force.

- What would you suggest to the president?
- Do you think the dangerous detainees can be safely kept on U.S. soil? Would you want them to come to a federal prison in your state?

Food Safety

On March 14, President Obama talked about food safety in his weekly radio/YouTube speech. With the economy in bad shape and war continuing, why do you think he talked about food safety?



Outbreaks and fear of food-borne illnesses like salmonella, e coli, and mad cow disease are on the rise. In the past few months, nine people have died from eating bad peanut products. Hundreds more have become sick

with salmonella, a disease that causes diarrhea, headaches, fever, and stomach pain. (See Box B to learn how a problem like bad peanuts spreads.)

Countries have stopped importing beef from other countries because of fear that meat is infected with mad cow disease. Mad cow disease can cause a brain-wasting disease in humans.

In his speech, President Obama pointed out that outbreaks of food-borne illnesses have grown from 100 a year in the early 1990s to 350 a year. He said that, as both president and a parent, he takes food safety very seriously.

He cited three reasons for the growing problems with food safety. First, many of the laws on food safety go back to the presidency of Teddy Roosevelt. They need updating. Second, the responsibility for inspecting food is spread across too many different government agencies. Third, he said, the Food and Drug Administration does not have enough resources to do a good job inspecting food.

What does the President propose to do about this problem? He set up a Food Safety Working Group to study the laws on food safety and how they are enforced. The group will propose new laws for Congress to consider.

He also said that the Agriculture Department would close a loophole in its regulations. Closing the loophole will ensure that sick cows don't get into the food supply.

Finally, he said one billion dollars would be spent on modernizing the food safety system. Some of that money will go to hiring more food inspectors.



Engineers test a handheld laser scanner that will detect bacteria in meat.

While the president can create a task force and change regulations, he can only recommend new laws and programs to Congress. Congress must act to pass the laws and fund programs before these plans become realities.

Think about the questions below. Then discuss them with your class.

- How important is the issue of food safety to you? Explain your answer.
- How does the issue of food safety illustrate limits on the president's ability to put new policy in place? Do you think such limits are a good idea? Why or why not?

The Origins of Habeas Corpus: A Play

Imagine a town where the mayor has thrown everyone out of the city council and locked the doors. The city council can't make any more laws. The mayor asks his friend Dan for money to help pay the town's bills, particularly a raise for the police, and to help buy the mayor's new house. Dan says no. Dan has money, but he doesn't think he should say yes just because the mayor is a friend. Or at least the mayor used to be a friend. Then Dan hears a knock at his door. It's the police. They take Dan to jail. Dan wants to know why, but they won't tell him. Could this ever happen? Is it fair? It did happen in 1627 in England.

Reading

The Players: Narrator 1; Narrator 2; King Charles I; Thomas Darnel, a Knight; Sheriff; Jailer

Narrator 1: This story is about an English king who closed Parliament, the law-making arm of the government, because it wouldn't pass a law to raise taxes on the rich. The king thought, "My kingdom needs more money to pay my soldiers and to keep me living like a king. The poor people don't have enough money. Why not make my rich knights pay more?" But Parliament had mostly rich people in it, and they didn't want to pass such a law, particularly to pay for the king's lifestyle.

Narrator 2: When Parliament refused to ask the rich knights for money, the king was very angry. But the king was also very powerful, so he asked the knights himself. One of his knights, Thomas Darnel, refused to give his money to the king. Let's listen to what happened to Thomas.

King Charles I: Sheriff, I want you to arrest Thomas Darnell immediately. Have him locked in the tower.

Sheriff: On what charge? What did he do?

King Charles I: Just do what I say or I will throw you in prison, too.

Narrator 1: The Sheriff went to Thomas's house and knocked on the door.

Sheriff: Open this door in the name of the King! You are under arrest.

Thomas Darnell: What law am I supposed to have broken?

Sheriff: Just come with me.

Narrator 2: The sheriff took Thomas to the tower and had the jailer lock him up.

Thomas Darnell: Jailer, tell me; What have I done? Why am I here? I need to be able to defend myself. Please tell my family where I am.

Jailer: I don't know why you are here. For all I know, you are a dangerous killer. I can't help you.

Narrator 1: Finally, someone found out where Thomas was. They got an attorney to help Thomas. The attorney went before a judge to ask why Thomas was in jail.

Activity

In pairs, answer the following questions:

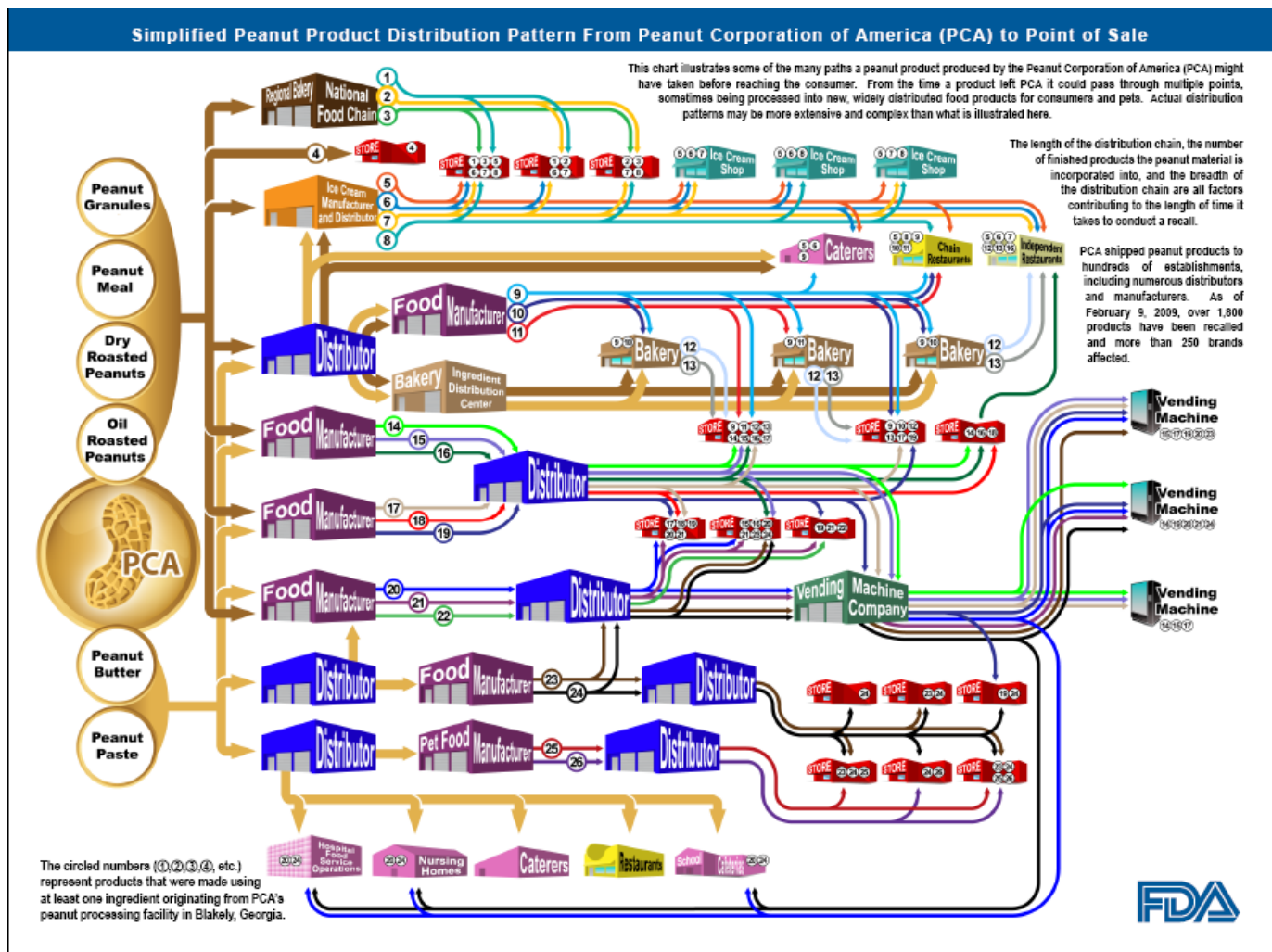
- Why did the king lock Thomas up? Did Thomas Darnell break a law?
- If you were the judge, what would you do and why? Would you leave Thomas in jail, let Thomas go home, or find out why Thomas was in jail and call witnesses to help you decide whether Thomas was guilty of breaking a law?

Adapted from "Habeas Corpus and 'Enemy Combatants,'" by Carolyn Pereira and Nisan Chavkin, *Social Education* 72, 5 (2008), pp. 236-245. Used by permission of the authors.

How Do Bad Peanuts Become a National Health Problem?

The Food and Drug Administration created this chart to show how peanuts from one company got to the public around the nation. Look carefully at the chart.

- On the left side of the chart are six kinds of basic peanut products made by the Peanut Corporation of America. Each product is in a different circle. What are the six products?
- The arrows show where these products go from PCA. What different kinds of places might dry roasted peanuts go to?
- Follow the arrows going away from the ice cream manufacturer. How many different kinds of places do the ice cream products go to?
- Trace peanut butter's path to the school cafeteria. (Hint: check the bottom of the chart.)
- Have you ever gotten a candy bar with peanuts in it from a vending machine? Trace two different paths from the vending machine back to PCA.
- Name all the different kinds of places where contaminated foods were sold. Do you or your family get food at any of these places?
- What does the chart show you about the complexity of the food safety problem? Remember, this is just one food—peanuts! What does it suggest about the solutions needed to make our food safer?



Teacher's Corner

The “New President, New Policies” reading and support materials in this edition of the MPU enews could be used as a supplement to *A More Perfect Union*, Units 3, “Executive Branch,” and 5, “Individual Rights.” Suggestions for using the materials are provided below.

The Origins of Habeas Corpus: A Play

The brief play provided in Box A on page 4 is designed to help students understand the origins of this important right. After students have discussed the play and reported out on their views, you may share the following information about what really happened to Thomas:

What really happened to Thomas? The judge agreed to find out why Thomas was being held. But the king refused to say. The attorney for the king argued that the king should not have to tell the court why Thomas was being held because it was top secret. And the judge agreed! Thomas went back to jail. The judge said that it was important for the king to be able to keep secrets. Who knows, maybe Thomas Darnell was a danger to the kingdom. He might have been angry at the king and planning to overthrow him.

The people who wrote the U.S. Constitution wanted to make sure that anyone held in jail is there for a lawful reason and knows why he (or she) is there. They called this the right to a writ of habeas corpus. Habeas corpus means you have the right to be brought before a judge, be told what you are accused of doing, and have the judge decide whether you should be held for trial or set free. Remember what happened to Dan? Today Dan would have to come before a judge. The judge would tell Dan what he was accused of doing and decide if the police had a lawful reason for detaining him. In Dan’s case, he had not broken a law. He would be set free.

For a more detailed treatment of the habeas corpus issue, see “Habeas Corpus and ‘Enemy Combatants,’” by Carolyn Pereira and Nisan Chavkin, *Social Education* 72, 5 (2008), pp. 236-245, <http://publications.socialstudies.org/se/7205/7205236.pdf>.

Mini-Simulation: Presidential Task Force

The “Closing Guantanamo and the NIMBY Factor” section of the reading could be used as the basis for a mini-simulation in which students, acting as the task force advising President Obama, decide what should happen to the 240 detainees still being held at the Guantanamo Bay detention facility.

Discussion

A number of questions that could be used to stimulate discussion are embedded within the reading. A “Taking a Stand” activity could be useful for this discussion.

Define the issue to be discussed so there are two clearly conflicting options to be considered. Write each position on one end of a long line you have drawn across the chalkboard. For example:

Closing the detention center at Guantanamo Bay
Is a good idea. .

Closing the detention center at Guantanamo Bay is a
bad idea. .

Open the discussion by presenting the issue. Then tell students that they are going to express their opinions on the issue by voting with their feet. Ask students who agree with the statement at one end of the continuum to come to

the front of the room and stand by the statement; those who agree with the other statement should stand at the other end of the continuum. Those who have positions between the two extremes should position themselves along the line to show their relative disagreement/agreement with the two statements.

Ask for a volunteer near one end of the line to explain his/her position; allow time for someone with the opposing view to respond. Then allow students to question each other regarding their positions. It is a good idea to have some probe questions prepared in case students do not come up with questions or comments quickly. A strategy that is often helpful is to ask the students in the “unsure” category what they need to know before they can decide which position they would support.

Graphic Organizers

The *More Perfect Union* curriculum uses graphic organizers to deepen student understanding of the Constitution and the government based on it. For example, in Lesson 2.2 students create a flow chart showing how a bill becomes a law and in Lesson 3.3 they use and create organizational charts of the federal bureaucracy. The very complexity of the federal government relates directly to one of the problems President Obama mentioned regarding food safety: too many agencies are involved in food safety and too little communication occurs among them. Thus, this section of the reading can readily be tied to Lesson 3.3. The graphic in Box B on page 5 is another tool for helping students understand complexity—in this case the complexity of problems and the solutions addressing those problems.

Extended-Response Assessment Item

When combined with the reading, the following questions provide an extended-response assessment:

1. What does a writ of habeas corpus require the government to do?
 - a. It requires the government to provide a lawyer to the accused.
 - b. It requires the government to appear in court and explain why it is holding the accused.
 - c. It requires the government to provide visiting privileges to prisoners held in isolation.
 - d. It requires the government to drop the charges against enemy combatants who are U.S. citizens.
2. Which is the best summary of the Supreme Court’s rulings on the habeas rights of enemy combatants?
 - a. Enemy combatants do not have habeas corpus rights.
 - b. Enemy combatants have many constitutional rights, but not habeas corpus
 - c. In general, enemy combatants do have the right to a writ of habeas corpus.
 - d. Enemy combatants held outside the United States do not have a right to habeas corpus.
3. Which of the following is NOT a limit on the President’s ability to make changes in policy about food safety?
 - a. It is limited by Congress’s power to appropriate funds.
 - b. It is limited by Supreme Court rulings on what can be done through executive orders.
 - c. It is limited by Congress’s power to enact new laws.
 - d. It is limited by food companies that refuse to obey the law.
4. On both issues discussed in the reading, President Obama has created a task force or working group. What is the purpose of such groups? How will they help the president put his policies in place? Do you think they are a good idea? Explain your reasons.
 - a. Scaffolded Prompt: On both issues discussed in the reading, President Obama has created a task force or working group. What is the purpose of such groups? How will they help the president put his policies in place? Do you think they are a good idea? Explain your reasons. Find the **key ideas** in the reading about the problems President Obama wants these groups to study. **Make references to the text**, and **connect** to other things you have learned about how policy is developed and put in place. **Extend your response** by thinking about current events that may shed light on the question. Use evidence from the reading and your own knowledge to formulate and support your position on the question.

Insights from Research: Vocabulary Teaching and Learning

One of the challenges of teaching about the Constitution is the many complex and abstract vocabulary terms involved. In August 2008, the National Middle School Association published a review of research on vocabulary teaching and learning across disciplines; the reviewers, Harmon and Wood, derived six key understandings from that research: (1) word knowledge is important for learning, (2) word knowledge is complex, (3) metacognition is an important aspect of vocabulary learning, (4) effective vocabulary instruction moves beyond the definitional level of word meanings, (5) vocabulary learning occurs implicitly in classrooms across disciplines, and (6) vocabulary learning occurs through direct instruction.

Three of these key understandings struck CRFC staff as particularly important. One of these is the key understanding related to metacognition. According to Harmon and Wood, one aspect of metacognitive thinking that students need is “word consciousness”—an awareness of, interest in, and appreciation of word meanings. All social studies teachers have seen students experience the opposite of word consciousness—students shutting down as they realize a passage contains so many unfamiliar words as to be unintelligible to them.

While Harmon and Wood do not suggest strategies for developing word consciousness, we can hypothesize that developing this attitude is linked to the next key understanding—that effective vocabulary instruction moves beyond the definitional level of word meanings. Learning a formal definition of a word does not develop an appreciation for the power mastering a word gives the user. Experiences that require students to engage deeply with words, like the experiences MPU teachers have given students by requiring them to create public service announcements explaining ideas from the Declaration of Independence, begin to provide that kind of understanding. A student’s imperfect comprehension of a word or concept like “Consent of the Governed” is enhanced when students have to think about how to convey the idea to the public through a billboard, television commercial, or radio ad.

Finally, we would direct teachers’ attention to the key understanding that vocabulary learning occurs through direct instruction. Here, Harmon and Wood point to research showing that “effective vocabulary instruction places an emphasis on the semantic relationship among words. In these studies, instruction moved beyond the definitional level to include activities for presenting words in semantic categories, using words in meaningful sentence contexts, and applying words to new contexts.”

The Preamble lesson in *A More Perfect Union* illustrates nuanced direct instruction in vocabulary. Students first must paraphrase the Preamble; this step takes them to the definitional level of word meanings. Next, they categorize examples of government functions according to which phrase of the Preamble they exemplify. Then they apply their understanding of the phrases of the Preamble in a civil conversation in which they analyze President Obama’s “More Perfect Union” speech. In each phase of the lesson, they are deepening their understanding of the vocabulary in the Preamble and the meaning of the Preamble itself.

How might teachers engage students with vocabulary in the enews? Research suggests students could highlight key words in the reading, define the words, create a semantic map showing how the words are related to other words, and use the words in another context. For example, students might highlight the phrase *executive order* and define it as “a directive from the president saying how the law should be carried out.” The teacher could then ask students to draw a semantic map showing how the words *executive order*, *president*, *law*, *cabinet departments*, *Congress*, and *Constitution* are related. Students could search the White House website (<http://www.whitehouse.gov>) to find examples of executive orders. They could then write a brief news item about an executive order issued by President Obama in his first months in office.

We welcome teachers’ suggestions for improving vocabulary development in **A More Perfect Union**.

Source: Harmon, J. M., and K.D. Wood, *Research Summary: Vocabulary Teaching and Learning across Disciplines* (Westerville, OH: NMSA, August 2008), <http://www.nmsa.org/Research/ResearchSummaries/VocabularyTeaching/tabid/1728/Default.aspx>.