

# CAPES/ CAFEP EXTERNE D'ANGLAIS

## SESSION 2011

### ÉPREUVE SUR DOSSIER

#### PREMIÈRE PARTIE

Vous procéderez en anglais à la mise en relation des documents suivants, en vous appuyant sur la consigne ci-dessous.

**You will analyse the three documents, paying particular attention to the way they apprehend the American Constitution.**

**Document A** : extracts from “The Constitution, Sort Of”, by Tobin Harshaw, from his blog at nytimes.com (January 2011).

**Document B (audio)** : “Supreme Court Justice Scalia Vigorously Defends a 'Dead' Constitution,” National Public Radio (April 28, 2008)

**Document C** : *Scene at the Signing of the Constitution*, oil painting by Howard Chandler Christy (1940)

## DOCUMENT A

Republicans like to think of themselves as the party that gets things done, yet the opening of the 112th Congress on Wednesday didn't bode well in terms of efficiency: two new members apparently voted on and initiated bills before they had been sworn in; the party leadership waffled on its promise to cut \$100 billion in domestic spending this year; and Speaker of the House John Boehner was accused of breaking his own pledge to send all bills through a complete committee process. Well, at least there was no way to mess up the much-hyped symbolic measure of the day, a bipartisan reading of the Constitution, right?

“The U.S. Constitution has still never been read in its entirety and in order on the House floor,” reported Josiah Ryan. “During Thursday morning’s ‘historic reading,’ one member apparently skipped Article 4 Section 4 and part of Article 5 when he or she inadvertently turned two pages at once, Rep. Bob Goodlatte (R-Va.), who was in charge of the reading, said on the House floor this afternoon.” [...]

While the inadvertent omissions were a minor embarrassment, there was more substantial controversy over passages that were cut intentionally. The Times’s Jennifer Steinhauer explained:

In consultation with the Congressional Research Service and others, the leaders of the House had decided to read a version of the Constitution that was edited to exclude those portions superseded by amendments — including amendments themselves — preventing lawmakers from having to make references to slaves, referred to in Article I, Section 2 as “three fifths of all other Persons” or to failed experiments like Prohibition. Members were not provided with the version before the reading began.

Representative Jesse L. Jackson Jr., Democrat of Illinois, registered a complaint he expanded on later in a prepared statement, essentially arguing that the House was whitewashing history and ignoring the blood, sweat and tears paid to achieve the amendments.

Jackson wasn't the only one upset. “The reason to include the superceded text is to remind us that the Constitution, while a remarkable document, was not carved out of stone tablets by a finger of light at the summit of Mount Sinai,” wrote Adam Serwer at the Plum Line. “It was written by men, and despite its promise, it possessed flaws at the moment of its creation that still reverberate today. Republicans could use the history lesson — last year they attacked Supreme Court Justice Elena Kagan during her nomination process because one of her mentors, Justice Thurgood Marshall, had the audacity to suggest that the Constitution was flawed since it didn't consider black people to be full human beings.”

“To call the three-fifths clause and other superseded provisions part of the current ‘Constitution’ is silly,” responded Adam J. White at The Weekly Standard. “I suspect that when President Obama swore his oath to ‘preserve, protect, and defend the Constitution of the United States,’ he didn't have the three-fifths clause in mind. (Or Prohibition. Or the election of senators by state legislatures.) Nor did Rep. Jackson, when he swore his own oath to support the Constitution. The demand by some to read inoperative parts of the Constitution

furthered no obvious purpose other than to denigrate the original Constitution's limits on Congress.... Unfortunately, this is but the latest manifestation of modern liberal politics, focused first and foremost on complaining about societal ills corrected by the American people long ago – in this case, nearly 150 years ago.”

Alana Goodman at Commentary also thinks Jackson and Serwer missed the point. “The reason Congress read the Constitution wasn't to perform an academic historical exercise,” she wrote. “The left may not understand this, but the Constitution is actually still used on a daily basis to uphold our nation's laws.... The Constitution is a governing document that has and can be changed. Instead of focusing on the ugly, superseded portions of the document, lawmakers would do better to concentrate on upholding the parts that are still binding today.”

Yale law professor Jack Balkin, however, feels that the original text would further us on that very task.

Reading the entire Constitution is a way of reminding ourselves that the Constitution is always a work in progress; that it has been flawed in the past and probably is still flawed in the present; that what we have now before us is not necessarily the final version of the Constitution, but that the Constitution can always be improved and that it must be improved; that no matter how much our political institutions may have failed us in the past, and no matter how much we have failed ourselves in the past, political redemption is always still possible; and that We the People of the United States can still always strive for a more just, more free, and more equal country– what the Preamble of the Constitution calls a “More Perfect Union.”

Tobin Harshaw, “The Constitution, Sort Of” (extracts), <http://opinionator.blogs.nytimes.com/>  
January 7, 2011.

## **DOCUMENT B**

Audio document : “Supreme Court Justice Scalia Vigorously Defends a 'Dead' Constitution,” National Public Radio, April 28, 2008. From 00:35 to 2:33.

## DOCUMENT C



*Scene at the Signing of the Constitution*, oil painting by Howard Chandler Christy, 1940, currently displayed in the House of Representatives.

Note : Only the thirty-nine delegates who actually signed the Constitution (out of the fifty-five who originally attended the Convention) are included in the painting. Among them : George Washington (standing behind the desk), Benjamin Franklin (sitting and holding a walking cane, in the center of the picture), Alexander Hamilton (leaning towards Franklin)...