***We the People: the Citizen & the Constitution***

2019-2020 High School Hearing Questions

Information, Tips, Analysis, & Resources from the Oregon high school We the People community

Unit 2 / Q. 2

**One historian has suggested that the secrecy rule of the Philadelphia Convention allowed a “group of elite nationalists … some space to maneuver independent of public opinion.”\* What were the reasons for the secrecy rule? In your opinion, were they legitimate?**

* What other rules of the convention, if any, were as important as the secrecy rule?
* In your opinion, are there any circumstances that warrant government proceedings to be shielded from public scrutiny?

\* Michael J. Klarman, *The Framers’ Coup*: *The Making of the United States Constitution* (New York: Oxford University Press, 2016), 253.

**Collaboration Tips:**

**4** different questions are in this overall question.

Dates/Timespan/Era of this question: **1787 - modern era**

Historical events/context that connects to this question:

* **PATRIOT Act**
* **Shays Rebellion**
* **Failed conventions**
* **Watergate**
* **Pre-Vietnam war efforts**
* **Defense missions**
* **Budget shifts (executive power)**

Sections of the US Constitution that apply: **Sates issues, First Amendment**

Possible Current Events that apply:

* **Russian intervention in elections**
* **FISA Court**
* **Military Court**
* **Whistleblowers**
* **Supreme Court deliberations**
* **Campaign Contributions**
* **Texas clear backpacks**
* **Public access**
* **Redistricting processes**

Possible Court cases that apply: ***Nixon v. US***

***US v. Nixon***

***FISA Search and Seizure cases***

***National Security cases***

***First Amendment cases***

**Comments from Justice Jack Landau:**

*To understand the quote necessitates understanding Klarman’s essential thesis about the Convention. Klarman suggests that the principal problems with the Confederation had to do with an excess of democracy. State governments were too responsive to the immediate whims of the people. Office holders were subject to election every year. There was direct election of legislators. And, as a result, the states tended to respond to the passions of the moment. Of particular concern (at least to political elites and the merchant class -- who were most of the delegates to the Convention), were the actions of state legislatures to authorize the payment of taxes and debts with paper money and the suspension of various tax obligations. They wanted to avoid anything like Shays’s rebellion. Klarman holds that the political elites at the Convention wanted to adopt a form of government that curbed excessive democracy by eliminating direct elections for every office but the House and by adopting checks and balances (the veto anyone?) that would limit the ability of the legislatures to be too hasty in responding to the passions of the public moment. Klarman suggests that, without the secrecy rule, the framers probably wouldn’t have been able to pull of their coup, because public outcry would have made it impossible. He’s probably right.*

*Should government proceedings be shielded from public scrutiny? Great question. Note that some states -- like Oregon -- require government "in the sunshine." There are no secret legislative proceedings (though there are, controversially, some internal executive department deliberations that remain free from public disclosure). And for timely events concerning public scrutiny about government actions, see the recent brouhaha over the resignation of Governor Brown's public records advocate.*