



We the People
THE CITIZEN AND THE CONSTITUTION

Directed by the Center for Civic Education and funded by the U.S. Department of Education under the Education for Democracy Act approved by the United States Congress.

STATE HEARING QUESTIONS 2015–2016

Unit One: What Are the Philosophical and Historical Foundations of the American Political System?

1. “What is meant by the Revolution? The War? That was no part of the Revolution.... The Revolution was in the minds of the People, and this was effected...before a drop of blood was drawn.”* Do you agree or disagree with this opinion? Why? What evidence can you offer to support your position?

- In what ways, if any, were the basic ideas held by Americans contrary to those held by the British?
- Were the colonists justified in believing that British policies violated basic principles of constitutional government? Why or why not?

* John Adams to Thomas Jefferson, August 24, 1815, in Kathleen Burk, *Old World, New World: Great Britain and America from the Beginning* (New York: Atlantic Monthly Press, 2007), 108.

2. In what ways were the Founders influenced, both positively and negatively, by past governments and governments from their own time?

- Why did the Founders distrust direct democracy and prefer a representative or republican form of government?
- Why did the founding generation believe that a constitution should function as a type of higher law?

3. “In just 1,337 words, the Declaration of Independence altered the course of history. Written in 1776, it is the most profound document in the history of government since the Magna Carta.”* What, if anything, do you think is profound about the Declaration?

- The Declaration claims that some rights are “unalienable.” What does this mean, and do you agree with this idea? Why or why not?
- Under what circumstances does the Declaration justify a right of revolution? Do you agree with the justification? Why or why not?

* “Our Declaration,” accessed August 20, 2015, <http://books.wwnorton.com/books/Our-Declaration/>.



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Unit Two: How Did the Framers Create the Constitution?

1. Why did the Articles of Confederation prove inadequate to the first attempt to form a national government?

- In what ways did the Articles of Confederation demonstrate a distrust of a strong national government?
- What were the historical and philosophical reasons for the distrust of strong national government? To what extent do those reasons exist today? Are they justified? Why or why not?

2. Compare the New Jersey and Virginia Plans. What were the strengths and weaknesses of each plan?

- How would you explain the principle of proportional representation, and why was it controversial at the Philadelphia Convention?
- The Great Compromise resulted in proportional representation of people in the House of Representatives and equal representation of states in the Senate. What have been the consequences of this compromise? Would you change it in any way? Why or why not?

3. A widespread public debate over the ratification of the Constitution raged for almost a year. What important purposes, if any, were served by that debate?

- Why did the delegates to the Philadelphia Convention create new rules for the ratification of the proposed Constitution, and were they justified in doing so?
- What role did the newspapers and pamphlets—the media of that time—play in educating the public and furthering reasoned discourse? How would you compare today's media with the media of the time of ratification?



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Unit Three: How Has the Constitution Been Changed to Further the Ideals Contained in the Declaration of Independence?

1. “The Civil War worked profound changes in the Constitution...amounting to what many have called America’s Second Founding.”* What were those changes in the Constitution?

- Should those changes be called “profound”? Why or why not?
- In what ways, if any, do those constitutional changes amount to “America’s Second Founding”?

* Goodwin Liu, Pamela S. Karlan, and Christopher H. Schroeder, *Keeping Faith with the Constitution* (New York: Oxford University Press, 2010), 12–13.

2. The Fourteenth Amendment mandates that no state shall “deprive any person of life, liberty, or property, without due process of law.” It does not define due process of law, however. How would you explain the concept of due process of law?

- What is the relationship, if any, of due process to natural rights philosophy and the principle of limited government?
- How would you distinguish between procedural and substantive due process, and why are both important?

3. “Who are to be the electors of the federal representatives?... Not the rich, more than the poor; not the learned, more than the ignorant.... The electors are to be the great body of the people of the United States. They are to be the same who exercise the right in every State of electing the corresponding branch of the legislature of the State.”* Almost two centuries passed before James Madison’s prediction became reality. Why?

- In what ways, if any, is the right to vote related to the fundamental principles of American constitutional government?
- Voter turnout in presidential elections over the past eighty years has ranged from a low of 50 percent to a high of 62 percent.** Why do you think so many Americans fail to cast ballots? What might be done to improve this record?

* Federalist 57

** Sarah Janssen, ed., *World Almanac and Book of Facts: 2015* (New York: World Almanac Books, 2014), 517.



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Unit Four: How Have the Values and Principles Embodied in the Constitution Shaped American Institutions and Practices?

1. In 1798 James Madison wrote to Thomas Jefferson that “the constitution supposes, what the History of all Governments demonstrates, that the Executive is the branch of power most interested in war, and most prone to it. It has accordingly with studied care vested the question of war in the Legislature.” To what extent, if any, has the executive branch taken this power from Congress?

- How well has the War Powers Resolution of 1973 limited the powers of the president? Explain your position.
- What changes, if any, do you think should be made regarding the war powers of the president and Congress? Explain your answer.

2. To devote more time to crafting and passing legislation, “the Senate should do more of its business by simple majority vote of the senators present and voting. I know that many senators like the ability to filibuster and do not want to abandon the rule that requires 60 votes to close debate. But here’s the thing: the super-majority rule, as it has been applied recently, has become a formula for impotence and disorder. Every democratic institution in this country operates by majority rule except the Senate, where a small minority can completely gum up the works.”* Do you agree or disagree with Congressman Lee Hamilton? Why?

- What fundamental democratic principles are involved in this issue? Explain your answer.
- What policies, if any, would you suggest be established to deal with this issue? Justify your position.

* Lee H. Hamilton, “Specific Ways in Which Congress Can Fix Itself,” *Dallas Morning News*, March 19, 2014, <http://www.dallasnews.com/opinion/latest-columns/20140319-specific-ways-in-which-congress-can-fix-itself.ece>.

3. What are the major differences between Congress and the British Parliament?

- In what ways does the British Parliament mingle legislative and executive powers? What are the advantages and disadvantages of such mingling compared with the American system of separated powers?
- Compare and contrast the manner in which members are elected to Parliament and the U.S. Congress and their terms of office. What are the advantages and disadvantages of each?



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Unit Five: What Rights Does the Bill of Rights Protect?

1. Why has capital punishment continued to be controversial? What values and important principles are at variance?

- What are the major arguments for and against capital punishment?
- “In assessing a punishment selected by a democratically elected legislature...we presume its validity.... And a heavy burden rests on those who would attack the judgment of the representatives of the people.”* Do you agree or disagree with this opinion? Why?

* Justice Potter Stewart, plurality opinion, *Gregg v. Georgia*, 428 U.S. 153, 175 (1956).

2. The jury has been defined as “the democratic branch of the judiciary power—more necessary than representatives in the legislature.”* Do you agree or disagree with the opinion expressed here? Why?

- In what ways do the jury clauses of the Fifth, Sixth, and Seventh Amendments serve to ensure citizen participation in the judicial process?
- In what ways, if any, are both the grand (large) jury and the petit (trial) jury related to the principle of limited government?

* Maryland Farmer, quoted in Akhil Reed Amar and Les Adams, *The Bill of Rights Primer: A Citizen's Guidebook to the American Bill of Rights* (New York: Skyhorse Publishing, 2013), 138.

3. What is the relationship, if any, between the Fourth Amendment and the principles of limited government and the rule of law?

- What is the relationship, if any, between the Fourth Amendment and a right to privacy and to freedom of conscience and thought?
- At the time the Constitution was adopted, all searches would have involved a physical trespass. How have searches changed since then, and what problems do those changes create?



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Unit Six: What Challenges Might Face American Constitutional Democracy in the Twenty-first Century?

1. **“Democracy is not the ‘default’ form of political organization; it requires a high degree of citizen understanding and participation to work well even under the best of conditions.”* Do you agree or disagree with this statement? Why or why not?**
- How would you explain “citizen understanding”? Why is it important?
 - In what ways, if any, are “citizen understanding” and “citizen participation” related to one another and required for democracy to work well?

* Robert L. Maddex, *Constitutions of the World*, 3rd ed. (Washington, D.C.: CQ Press, 2008), viii.

2. **When Eleanor Roosevelt urged the adoption of the Universal Declaration of Human Rights in the United Nations in 1948, she insisted that “This Universal Declaration...may well become the international Magna Carta of all men everywhere.”* In what ways are the Magna Carta and the Universal Declaration alike? In what ways are they different?**
- How are ideas in the Magna Carta and the Universal Declaration related to natural rights philosophy?
 - How are ideas in the Magna Carta and the Universal Declaration related to classical republicanism?

* Jill Lepore, “The Rule of History: Magna Carta, the Bill of Rights, and the Hold of Time,” *New Yorker*, April 20, 2015, <http://www.newyorker.com/magazine/2015/04/20/the-rule-of-history>

3. **“No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even those most basic, are illusory if the right to vote is undermined.”* Do you agree or disagree with this opinion? What evidence can you offer to support your response?**
- What do you consider to be the most important landmarks in securing the right to vote for all Americans? Why?
 - What do you consider to be the most important issues still facing Americans in regard to the right to vote? Why?

* Hugo L. Black, *Wesberry v. Sanders*, 376 U.S. 1, 17 (1964).