

We the People State Competition:
The Citizen and The Constitution
2011-12 State Competition

Hearing Questions

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

- 1. In the Declaration of Independence, Thomas Jefferson asserted that “governments are instituted among men, deriving their just powers from the consent of the governed.” Why did Jefferson claim that a legitimate government cannot exist without the consent of those who agree to be governed? Do you agree or disagree with Jefferson? Why?**
 - What is meant by the term “social contract”? How is it connected to the idea that government derives its authority from the consent of the governed?
 - How do we as present day Americans give our consent to be the governed and how can we withdraw it?

- 2. What basic constitutional principles were reflected in the governments of all of the colonies?**
 - Why did colonial governments become more representative than Britain’s?
 - Which of those constitutional principles were derived from the English experience in developing representative government?
 - Why did the colonists finally decide to declare independence?
 - What were the main ideas and arguments of the Declaration of Independence?

- 3. Even before John Locke expounded the social contract theory, American colonists had incorporated the idea in documents such as the Mayflower Compact and the Fundamental Orders of Connecticut. Explain that theory. Why has it continued to play a significant role in the thinking of Americans?**
 - What is the relationship between social contract theory and the rights and responsibilities of citizens?
 - What is the relationship of social contract theory to constitutionalism?

Unit Two: How did the Framers Create the Constitution?

1. How was the role of government different under the new Constitution as compared to the Articles of Confederation?

- What were the contrasting viewpoints of the Federalists and Anti-Federalists?
- How would society be different today if the new Constitution had incorporated only the viewpoints of the Federalists or Anti-Federalists?
- What arguments exist today that may be similar to those that occurred between the Federalists and Anti-Federalists?

2. How are modern political conflicts similar to the issues debated by the Federalists and Anti-Federalists?

- In what ways have civil liberties been limited by the government during times of crisis?
- In what ways has the U.S. Supreme Court protected unpopular speech?
- How has the U.S. Supreme Court protected the rights of citizens under the age of 18?

3. In *Federalist 10*, James Madison argues that “faction is part of the very nature of man” and that a republic is better than a pure democracy for combating majority factions. Do you agree or disagree? Why?

- Evaluate the two methods of “curing the mischiefs of faction” that Madison sets forth in *Federalist 10*.
- How serious are the problems of faction and/or “majority tyranny” today? What evidence can you offer in support of your position?

Unit Three: How Did the Values and Principles Embodied in the Constitution Shape American Institutions and Practices?

1. “Throughout American history courts have played a major role in the development of public policy through the exercise of the power of judicial review.”^{*} What is judicial review and how have the courts used this power to develop public policy?

- “The single most important post-1787 addition to checks and balances is judicial review.”** Do you agree or disagree with this view? Why?
- Why has judicial review continued to be controversial?
- What recourse do people have if they don’t like a decision of the court?
- Do you think it should be the position of the court to develop public policy?

^{*} Jack C. Plano and Milton Greenberg. *The American Political Dictionary*, 11th ed. (Fort Worth: Harcourt College Publishers, 2005), 290.

^{**} Richard A. Brisbin, Jr. “The Judiciary and the Separation of Powers,” in *The Judicial Branch*, Kermit Hall and Kevin T. McGuire, eds. (New York: Oxford University Press, 2005), 95.

2. The Civil War has been called “the greatest failure in America’s constitutional government.” What were the constitutional issues that led to the Civil War?

- What were the major arguments made by the North and the South about the proper relationship between the nation and the states?
- How and why did the principles set forth in the Declaration of Independence figure in the debate between the North and the South?

3. Why does federalism represent a compromise between an extreme concentration of power and a loose confederation of independent states?

- Why did the Framers find it necessary to invent federalism at the Philadelphia Convention?
- Why is federalism generally associated with democracy?
- Does the Electoral College reflect the principles of federalism?
- In your view, does the Senate reflect the state’s or the nation’s interests?

Unit Four: How Have the Protections of the Bill of Rights Been Developed and Expanded?

1. “Nor shall any state . . . deny to any person within its jurisdiction the equal protection of the law.” That clause in the Fourteenth Amendment marks the first use in the Constitution of the word “equal” regarding the rights of individuals. How would you describe what “equal protection of the laws” means?

- Does equal protection require treating all persons the same? If not, under what circumstances might persons be treated differently?
- Does equal protection require that everyone have equal opportunity?

2. How does the system of checks and balances limit the power of the government officials?

- Should the Supreme Court be the ultimate authority in interpreting the Constitution and is it the most powerful branch?
- How has the Constitution provided the government the ability to adjust to a changing society?
- How is the idea of limited government promoted in the United States Constitution?

3. In Federalist 78, Alexander Hamilton insisted that the judiciary would be the “least dangerous branch” because it would have “no influence over either the sword or the purse.” Was Hamilton right both in his time and in our time? Why or why not?

- What are the constitutional powers of the Supreme Court?
- How can the exercise of judicial power be checked?
- Should judges be elected?
- Should judges be involved in politics?
- Does the judiciary branch protect and expand our rights or limit them? Explain.

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

- 1. Can a public trial become too public? How can the rights of the accused guaranteed in the Sixth Amendment be balanced with the First Amendment's right of the public to know**
 - To what extent does pretrial publicity prejudice potential jurors and deny defendants the right of a fair trial?
 - What important purposes do public trials serve?

- 2. What rights does the Fourth Amendment protect and why are those protections important?**
 - What historical experiences led to the adoption of the Fourth Amendment?
 - Why has the Fourth Amendment proved to be one of the more troublesome provisions of the Bill of Rights?

- 3. Justice Louis Brandeis, in his dissent in *Olmstead v. United States* (1928), argued for a right to privacy. "The makers of our Constitution . . . sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the Government, the right to be let alone – the most comprehensive of rights and the right most valued by civilized men."**
 - Should privacy be a fundamental right even though it is not specifically listed in the Bill of Rights? Why?
 - Where in the Constitution or Bill of Rights does Justice Brandeis find references to suggest privacy rights?

Unit Six: What are the Roles of the Citizen in American Democracy?

1. **Which of the changes taking place in contemporary American society do you think are likely to present the greatest challenge to constitutional rights in the years ahead? Why? In what ways, if any, does modern technology endanger rights that Americans value?**
 - What do you think is the best way to meet those challenges? Why?
 - Which changes taking place do you think might need a constitutional amendment? Why?
 - What actions, if any, do you think citizens, Congress, or your state legislature should take to protect or enhance rights threatened by technology?

2. **It has been said that an educated and involved citizenry is healthy for a democracy. How do you balance self-interest v. common good? How can you, if you can, decide which movements are beneficial or detrimental to society?**
 - How do reform or civic movements organize and create a following?
 - Do movements usually spring spontaneously or do they piggy-back a prior movement?
 - Do you believe that there is such a thing as progress in a nation – in essence do you believe that we continue to strive for “a more perfect union”? And who should decide what “a more perfect union” actually is?

3. **In his last public letter, written ten days before his death, Thomas Jefferson expressed this hope for the Declaration of Independence: *May it be to the world what I believe it will be ... the Signal of arousing men to burst the chains ... and to assume the blessings and security of self-government.** To what extent have Jefferson’s hopes for the Declaration of Independence been realized?**
 - What evidence can you offer to support your response?
 - Was Jefferson correct in asserting that self-government affords “blessings” and “security”? Why or why not?

* Thomas Jefferson to Roger C. Weightman, June 24, 1826. Library of Congress. Reprinted in R.B. Bernstein’s *The Founding Fathers Reconsidered*. New York: Oxford University Press, 2009, 49.