



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.

NATIONAL HEARING QUESTIONS ACADEMIC YEAR 2010–2011

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

1. Recently an American scholar claimed that the Magna Carta is not just a cultural icon but a durable political text.* Do you agree or disagree? What evidence can you cite to support your position?

- What constitutional principles are embedded in the Magna Carta and why are they important?
- What rights asserted in the Magna Carta do you enjoy today?

* Kent Worcester. "The Meaning and Legacy of the Magna Carta" (*P.S. Political Science and Politics*, July 2010). 451.

2. When the colonists found themselves nearly in a political state of nature after 1775, why did they feel compelled to promptly write state constitutions?

- Most state constitutions reflected a belief in legislative supremacy. What arguments for and against legislative supremacy can you make?
- How and why did state constitutions embody the concept of a social contract?

3. An American historian writes that in the late 1760s and early 1770s, "There was little evidence of those social conditions we often associate with revolution ... no mass poverty, no seething social discontent, no grinding oppression For most white Americans there was greater prosperity than anywhere else in the world."* Why then did American colonists want to free themselves from Great Britain?

- Why did American colonists believe that some British policies violated basic principles of constitutional government?
- Evaluate the arguments the colonists used to justify their revolution against Great Britain.

* Gordon S. Wood. *The Radicalism of the American Revolution* (New York: Alfred A. Knopf, 1992). 169.



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Unit Two: How Did the Framers Create the Constitution?

1. Why did the Framers abandon the strategy of piecemeal reform of the Articles of Confederation?

- How did the Articles of Confederation reflect Americans' historical and philosophical reasons for distrust of strong national government?
- On balance, did the achievements under the Articles of Confederation outweigh its weaknesses? Why or why not?

2. The American Founding took the form of a debate or dialogue. One of the great debates was between the Federalists and the Anti-Federalists. What were the major disagreements between them and why were they important?

- On what issues, if any, did the two sides agree?
- What issues debated by the Federalists and Anti-Federalists are still in contention in the United States today?

3. In Federalist 48 James Madison warned that “power has an encroaching nature and it should be effectively restrained from passing the limits assigned to it. After theoretically dividing the classes of power into legislative, executive or judiciary the next—and most difficult—task is to provide some practical security for each against the invasion of the others.”* What provisions of the Constitution provide “practical security” against one branch of government invading the power of another?

- How effectively has the checking and balancing relationship of the three branches worked over time? What evidence can you offer to support your response?
- James Madison also wrote, “Dependence on the people is, no doubt, the primary control on the government.”** Do you agree? If so, how can the people exercise that control?

* Federalist 48.

** Federalist 51.



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

1. The United States was the first nation to provide an amendment process in its constitutional system. One of the Framers said this revolutionary process “is not a principle of discord, rancor, or war; it is a principle of melioration, contentment, and peace.”* Do you agree or disagree? What evidence can you offer to support your position?

- How accurate is it to call the amending process *revolutionary*? Why?
- An American scholar contends that because we venerate the Constitution, we “have a powerful urge to resolve whatever discrepancies between the ‘is’ of the Constitution and the ‘ought’ of our national aspirations.”** Do you agree or disagree? What evidence can you offer to support your position?

*James Wilson quoted in David E. Kyvig. *Explicit Authentic Acts: Amending the U.S. Constitution* (Laurence, Kansas: The University of Kansas Press, 1996). xii.

**Richard B. Bernstein and Jerome Agel. *Amending America* (New York: Random House-Times Books, 1993). xiii.

2. The Civil War raised some profound questions about our constitutional order. What significant questions arose during the Civil War regarding the breadth of the president’s power?

- What profound questions arose about the scope of civil liberties in wartime?
- Why have those questions continued to recur in our history?

3. Evaluate the argument that political parties offer an additional set of checks and balances alongside those provided by the U.S. Constitution.

- In what ways, if any, do political parties differ from factions?
- In the 2008 presidential election there were as many voters registered as Independent or Unaffiliated as Democrats or Republicans.* Is that a welcome or worrisome trend? Why?

* Howard Fineman. *The Thirteen American Arguments: Enduring Debates That Define and Inspire Our Country* (New York: Random House, 2009). 17.



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

1. Critics of the confirmation process for federal judges complain that it has become “a nationally televised spectacle much more than a check on a nominee’s qualifications.... One might accurately describe Supreme Court nominations now as ‘nasty, brutish and long.’”^{*} Do you agree or disagree. What evidence can you offer to support your position?

- Does the confirmation process collide with the principle of judicial independence? Why or why not?
- The Constitution establishes no formal requirements for appointment to the federal courts as it does for members of Congress and the president. Should the Constitution be amended to prescribe judicial qualifications?

^{*} Joel B. Grossman. “Paths to the Bench: Selecting Supreme Court Justices in a ‘Juristocratic’ World” in *The Judicial Branch*. Kermit L. Hall and Kevin T. McQuire (eds). (New York: Oxford University Press, 2005). 159.

2. Senator Edward Kennedy said that Ronald Reagan was “a successful candidate and effective president above all else because he stood for a set of ideas.” What were the ideas and principles for which Ronald Reagan stood? In what ways might standing by one’s ideas and principles contribute to the success or failure of a leader?

- How and why have the brevity and ambiguity of Article II of the Constitution enabled presidents to interpret war powers and domestic policy for themselves?
- How would you characterize the legacy of Ronald Reagan and what evidence can you offer to support your characterization?

3. In Federalist 70, Alexander Hamilton argued, “The executive branch of government must have the inherent powers to effectively accomplish its prescribed duties. Energy in the executive [powers equal to responsibilities] is a primary characteristic of good government.”^{*} Do you agree or disagree? Why?

- Despite popular complaints about bureaucracy and the size of government, why has the number of administrative organizations continued to grow?
- What are the sources of limits on the exercise of the powers of administrative agencies and how adequate are they?

^{*} Federalist 70 in *The Federalist Papers In Modern Language: Indexed for Today’s Political Issues*. Mary E. Webster (ed). (Bellevue, Washington: Merril Press, 1999). 284.



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

1. **“The reason we draft jurors rather than hire them is that we regard the activity of dispensing justice in the courts as a responsibility all citizens should share. Jurors don’t simply vote; they deliberate with one another about the evidence and the law.... Jury duty is not only a way of resolving cases, it is also a form of civic education and an expression of democratic citizenship.”* Do you agree or disagree with the opinions expressed here? Why or why not?**

- How does the American adversarial system differ from the European inquisitorial system in respect to the use of juries?
- What provisions of the Constitution protect the rights of Americans to trial by jury and why are those protections important?

* Michael J. Sandel. *Justice: What’s the Right Thing to Do?* (New York: Farrar, Straus and Giroux, 2008). 85.

2. **“The media should be fearless watchdogs, vigilantly examining the exercise of power and protecting the public from wrongdoing. The media should also provide a platform for open debate.... In short, the primary tasks of the media are to inform, scrutinize, debate and represent (the citizenry).”* Do you agree or disagree? Why?**

- What provisions of the Constitution protect the media so that it can perform those functions?
- What historical or contemporary examples can you cite on which the media has fulfilled—or failed to fulfill—those functions?

* James Curran. “What Democracy Requires of the Media” in *The Press: Institutions of American Democracy*. Geneva Overholser and Kathleen Hall Jamieson (eds.). (New York: Oxford University Press, 2005). 120–137.

3. **During the Ratification debates, some delegates argued that “the traditional function of bills of rights, to mark the limits of a king’s prerogative, made them irrelevant in republics, where the people ruled.” Do you agree or disagree with that argument? Why?**

- In addition to rights identified in the Bill of Rights, what rights are protected in the body of the U.S. Constitution?
- Public opinion polls reveal a lack of knowledge and understanding of the Bill of Rights among Americans generally. How serious a concern is such a lack and what, if anything, should be done to address it?

* Pauline Maier, *Ratification: The People Debate the Constitution 1787–1788*. (New York: Simon and Schuster, 2010). 337.



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

- 1. Evaluate the criteria for obtaining U.S. citizenship as established by the Fourteenth Amendment.**
 - In what ways, if any, should the Fourteenth Amendment be changed to reflect different or additional criteria for citizenship?
 - How would you distinguish between the legal and moral rights and obligations of American citizens? Are both legal and moral rights and obligations important? Why?
- 2. “The reinvigoration of citizenship...depends on revitalizing rather than diminishing political participation and with it the sense of belonging and the commitment to rights that are its prime benefits.”* Do you agree or disagree with this opinion? Why?**
 - Should a constitutional democracy like the United States foster a sense of belonging among all of its people? How?
 - What does “a commitment to rights” entail and what are the costs and benefits of such a commitment?
- 3. “It is better to obey a bad law making use at the same time of every argument to show its errors and procedure its repeal, than forcibly to violate it; because the precedent of breaking a bad law might weaken the force, and lead to a discretionary violation of those which are good.”* Do you agree or disagree with the opinion expressed here? Why?**
 - In what ways is Thomas Paine’s view alike and different from that of Martin Luther King’s view as expressed in King’s “Letter from Birmingham City Jail”?
 - How can citizens “procedure” or act to bring about the repeal of laws they think are “bad” or ill-advised?

* Richard Bellamy. *Citizenship: A Very Short Introduction*. (New York: Oxford University Press, 2008). 123.

* Thomas Paine. *The Rights of Man* II, 1792. Reprinted in *The Quotable Founding Fathers* Buckner F. Melton, Jr. (ed.) (Washington, D.C.: Potomac Books, 2004). 164.