



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.

HIGH SCHOOL NATIONAL HEARING QUESTIONS ACADEMIC YEAR 2013–2014

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

1. In his speech to Parliament denouncing the colonists for rebelling, King George III declared “that to be a subject of Great Britain...is to be the freest member of any civil society in the known world.”* Was the king right or wrong in making that statement? What evidence can you offer to support your response?

- What were the common-law rights or the “rights of Englishmen,” and how were they established?
- Evaluate the colonists’ claim that they were entitled to those rights.

* David McCullough, *1776* (New York: Simon & Schuster, 2005), 11.

2. In what ways does the Declaration of Independence link the natural rights and classical republican philosophies?

- What has been the impact of these philosophies on American politics and government?
- Which ideals expressed in the Declaration of Independence do you think need greater realization in the United States today? How might they be realized?

3. “It was through the drafting of these state constitutions that Americans first developed principles of constitutionalism and republicanism that were then adopted at the federal level.”* Do you agree or disagree with this assertion of an American scholar? Why or why not?

- When the colonists found themselves nearly in a state of nature after 1775, why did they feel compelled to promptly write state constitutions?
- Most state constitutions reflected a belief in legislative supremacy. Why? What arguments for and against legislative supremacy can you make?

* John Dinan, “State Constitutions” in *The Concise Princeton Encyclopedia of American Political History*, ed. Michael Kazin (Princeton, NJ: Princeton University Press, 2011), 526.



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Unit Two: How Did the Framers Create the Constitution?

1. **“Of all rules adopted” at the Constitutional Convention “the two most important were the secrecy rule...and a rule allowing delegates to reconsider previous issues and change their votes.”* Do you agree or disagree with the historian who made that assessment? Why?**

- What other rules established a basis for civil discourse, and in what ways, if any, did they contribute to the success of the Convention?
- How would you assess the level of civil discourse in today’s legislative bodies? What evidence can you offer to support your response?

* Harlow Giles Unger, *Lion of Liberty: Patrick Henry and the Call to a New Nation* (Cambridge, MA: Da Capo Press, 2010), 188.

2. **Federalism is one of the unique features of American constitutionalism. How did the Framers attempt to balance the powers granted to national and state governments?**

- What are the costs and benefits of a federal system?
- Some critics argue that the United States is “very much a union of states, jealous of their powers and resistant to incursions” by the national government.* Do you agree or disagree? What evidence can you offer in support of your response?

* Jon C. Teaford, “State Government” in *The Concise Princeton Encyclopedia of American Political History*, ed. Michael Kazin (Princeton, NJ: Princeton University Press, 2011), 531.

3. **James Madison believed there were three proper remedies for centralized tyranny: first, “the checks provided among the constituted authorities”; second, “the influence of the Ballot-boxes and Hustings”; and finally, the constitutional powers to “amend and remake it [government].”*** Do you agree or disagree?

- In what ways, if any, do limits in the Constitution placed on both national and state government guard against “centralized tyranny”?
- In what ways, if any, have constitutional amendments served to “remake” government and prevent centralization of power?

* Garrett Ward Sheldon, *The Political Philosophy of James Madison* (Baltimore: The Johns Hopkins University Press, 2001), 122.



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

1. **“No president ever confronted such political catastrophe as Lincoln faced when he took the oath of office on March 4, 1861.”* Do you agree with this recent assessment by two American historians? Why or why not? What evidence can you offer to support your response?**

- Why did the prospect of adding new states to the Union intensify the conflict?
- Chief Justice Roger Taney hoped that the majority opinion in *Dred Scott v. Sandford* would peacefully resolve the conflict over slavery. Why did it fail to do so?

* Neil MacNeil and Richard A. Baker, *The American Senate: An Insider's History* (Oxford: Oxford University Press, 2013), 66.

2. **“The writ of *habeas corpus* is the most important single safeguard of personal liberty known to Anglo-American law.”* Do you agree or disagree with this conclusion reached by a constitutional scholar? Why or why not?**

- Was President Lincoln justified in suspending the writ of habeas corpus during the Civil War? Why or why not?
- Why has Lincoln's decision to suspend the writ of habeas corpus remained his most controversial policy decision to this day?

* Edward S. Corwin, *Edward S. Corwin's the Constitution and What It Means Today*, 14th ed., revised by Harold W. Chase and Craig R. Ducat (Princeton, NJ: Princeton University Press, 1978), 124.

3. **What is the relationship, if any, between the equal protection clause of the Fourteenth Amendment, natural rights philosophy, and the Declaration of Independence?**

- How would you differentiate the concepts of equal protection, equal opportunity, and equal outcome?
- Do all laws that create classifications violate the equal protection clause? Why or why not?



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

1. In Federalist 70, Alexander Hamilton argues that “Energy in the Executive is a leading character in the definition of good government.”* Do you agree or disagree? Why? What evidence can you offer to support your position?

- How would you describe “energy” in the executive? What are its essential ingredients?
- How would you define a “feeble” executive? In what ways might a feeble executive be as dangerous as an overly energetic one? Why?

* *The Federalist*, ed. Michael Loyd Chadwick (Springfield, VA: Global Affairs Publishing Co., 1987), 380–81.

2. “The Court has a role in the institutional politics of the nation, ...the members of the Court are political players themselves, and...the Court’s decisions can dramatically affect the nation’s political fate.”* Do you agree or disagree with the opinion of a scholar expressed here? Why or why not? What evidence can you offer to support your position?

- In what ways does the system of checks and balances limit the power of the Supreme Court? Are additional checks and/or balances needed? Why or why not?
- No institution other than the Supreme Court is asked to explain itself through written opinions. What purposes do written opinions serve and how important are they in a democratic society?

* William James Hill Hoffer, “Supreme Court” in *The Concise Princeton Encyclopedia of American Political History*, ed. Michael Kazin (Princeton, NJ: Princeton University Press, 2011), 540.

3. One of the “vital powers” the Framers of the Constitution awarded Congress “for maintaining its equilibrium in relations with the government’s executive and judicial branches [is]...the power to conduct investigations.”* How well has Congress exercised that power? What evidence can you offer to support your response?

- What purposes should the congressional power to investigate serve?
- How effectively has Congress balanced its investigative powers between obtaining information and assessing blame for government acts or omissions? What evidence can you offer to support your response?

* Neil MacNeil and Richard A. Baker, *The American Senate: An Insider’s History* (Oxford: Oxford University Press, 2013), 230.



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

- 1. How do the two alternative conceptions of rights as “negative” or “positive” reflect different beliefs about the role and responsibility of government in securing the rights of people?**
 - How are ideas of negative and positive rights reflected in classical republicanism and in natural rights philosophy?
 - Why do these alternative conceptions of rights as “negative” or “positive” frequently generate conflict? What historical and present-day evidence can you cite?
- 2. What are the primary similarities and differences between the free exercise and the establishment clauses of the First Amendment?**
 - Should organizations that oppose certain requirements of the Affordable Care Act because of their religious beliefs be required to comply with that law? Why or why not?
 - Compare the First Amendment’s free exercise and establishment clauses to Article 18 of the Universal Declaration of Human Rights. How are they alike? How are they different?
- 3. “The forefathers, after consulting the lessons of history, designed our Constitution to place obstacles in the way of a too permeating police surveillance, which they seemed to think was a greater danger to a free people than the escape of some criminals from punishment.”*
Do you agree or disagree? Why? What evidence can you offer to support your position?**
 - What “lessons from history” did “the forefathers” draw upon in writing the Fourth Amendment and the Fifth Amendment?
 - Do the protections of the Fourth Amendment need to be expanded beyond the police to include protections against commercial enterprises and government agencies? Why or why not? How?

* Robert H. Jackson, *United States v. Di Re*, 332 U.S. 581, 595 (1948).



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

1. **“Modern government has greatly extended its range, assuming responsibility for improving social conditions by regulating economic activity and providing a wide range of public services. This great expansion poses a major challenge to the very idea of constitutionalism: devised as commitments to ‘limited government.’”*** Do you agree or disagree with this assertion by a British scholar? Why? What evidence can you offer to support your position?

- How would you explain the concept of constitutionalism?
- What can citizens do if and when they believe government is overstepping the bounds of constitutional government?

* Martin Loughlin, *The British Constitution: A Very Short Introduction* (Oxford: Oxford University Press, 2013), 57.

2. **“If the current risk to national security is great, so is the risk of presidential miscalculation and aggrandizement [exaggeration]—all the more reason that military decisions be thoroughly examined and approved by Congress. Contemporary presidential judgments need more, not less scrutiny.”*** Do you agree or disagree? Why? What evidence can you offer to support your response?

- How and why have the president’s powers expanded in times of war and emergencies?
- How well has the checking and balancing relationship between the executive and legislative branches been maintained in respect to war powers? What evidence can you offer to support your response?

* Louis Fisher, *Presidential War Power*, 2nd ed. (Lawrence: University Press of Kansas, 2004), 262.

3. **“Immigration policy has long been one of the most contentious and ultimately transformative issues on the American public agenda, evoking intense political struggles over how to regulate the flow of newcomers.”*** Do you agree or disagree with this assessment by an American scholar? Why?

- What are the advantages and disadvantages of the United States being “a nation of immigrants”?
- What changes, if any, do you think need to be made to current United States immigration policy? Why?

* Daniel J. Tichenor, “Immigration Policy” in *The Concise Princeton Encyclopedia of American Political History* (Princeton, NJ: Princeton University Press, 2011), 293.