



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 2008 – 2009

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

1. How and why did ideas developed in the Age of Enlightenment influence the American Founders?

- How and why did the Enlightenment pose a threat to established institutions and authority?
- What important new ideas about government were developed during the Enlightenment?

2. What constitutional principles established by the Magna Carta and the English Bill of Rights were important to the American colonists? Why?

- How are the principles established in the Magna Carta related to the idea of limited government?
- How are the principles set forth in the English Bill of Rights related to the natural rights philosophy?

3. “The Americans’ greatest achievement ... the new states’ constitutions ... attracted the attention of government officials and students of politics all over Europe,”* wrote an American scholar. Is he correct in calling the new state constitutions “Americans’ greatest achievement”? Why or why not?

- What ideas or principles in the new state constitutions might have worried or frightened some European government officials? Why?
- What ideas or principles in the new state constitutions might have encouraged or inspired some European peoples? Why?

* Richard R. Bernstein. *Are We to Be A Nation? The Making of the Constitution* (Cambridge: Harvard University Press, 1987), p. 137.



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Unit Two: How Did the Framers Create the Constitution?

1. “For all of the colonists’ sense of being ‘Americans’ ... few in 1776 conceived of the thirteen states’ becoming a single republic, one community with one pervasive public interest.”* Do you agree or disagree with that judgment? Why?

- What factors contributed to the colonists’ sense of being “Americans” rather than British subjects?
- How and why did the Articles of Confederation fail to promote a sense of “a single republic” or “one community”?

* Gordon S. Wood. *The Creation of the American Republic 1776–1787* (New York: W.W. Norton & Company, 1972), p. 356.

2. How would you evaluate the rules the delegates to the Philadelphia Convention established to govern their meeting and debates?

- The secrecy rule remains controversial. Thomas Jefferson said it set “an abominable precedent.”* Others say it freed delegates to “think out loud” and to compromise. What is your judgment?
- How would you define “civil discourse,” and why is it of critical importance in a democratic society?

* Jefferson quoted in Carol Berkin’s *A Brilliant Solution: Inventing the American Constitution* (New York: Harcourt, Inc., 2002), p. 65.

3. How and why does the system of checks and balances contribute to limited government?

- How and why does this system create interdependence rather than complete separation of powers?
- What are the costs and benefits of this system?



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

- 1. Political parties have been described as an additional set of checks and balances alongside those created by the Constitution. Do you agree or disagree with that description? Why?**
 - Why did most of the Founders fear political parties? What are the advantages and disadvantages of a two-political-party system?
 - How would you distinguish between a political party and a faction and how important is that distinction?
- 2. What arguments did the Confederate States of America make to support their constitutional right to secede?**
 - Evaluate Abraham Lincoln's counterargument that secession was unconstitutional, a revolutionary act rather than a legitimate exercise of state sovereignty.
 - Should a democratic constitution provide for a right of secession? Why or why not?
- 3. Why is due process of law both an ancient and an evolving concept?**
 - How is the concept of due process related to the ideas of limited government and "ordered liberty"?
 - How is the concept of substantive due process related to the idea of fundamental rights?



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

- 1. The Founders were well acquainted with both ancient and contemporary governments. Why do you think they rejected a parliamentary system and invented a new system of separated but shared powers?**
 - What are the major ways in which the U.S. Congress differs from the British Parliament?
 - What do you think are the major advantages and disadvantages of a parliamentary system? Why?
- 2. 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?
- 3. In Federalist 68, Alexander Hamilton wrote, “We may safely pronounce that the true test of a good government is its aptitude and tendency to produce a good administration.” What are the essential qualities of “a good administration”?**
 - Why does Congress create administrative agencies and what functions do they serve?
 - How can the power of administrative agencies be checked?



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

- 1. What forms of expression does the First Amendment protect and why is that protection important both to the individual and to society?**
 - Under what circumstances, if any, are limitations on freedom of expression justified?
 - What forms of expression have been considered outside First Amendment protections? Why?
- 2. “From a quantitative perspective, trials are insignificant. Only about five to ten percent of all criminal prosecutions go to trial.... Qualitatively, however, trials are significant.... Trials come closer than any other stage in the criminal process to reaching the goal of open and objective fairness.”* Do you agree or disagree with that judgment? Why?**
 - What procedural rights do the Fifth and Sixth Amendments give criminal defendants?
 - What is the relationship, if any, between procedural due process and limited government?
- 3. How and why are the rights to assemble, petition, and associate related to one another and to limited government?**
 - How and why have the rights to assemble, petition, and associate been important in American history?
 - What restrictions have been imposed on these rights and how have they been justified?

* Lee Epstein and Thomas G. Walker. *Constitutional Law for a Changing America*, 3rd edition (Washington, D.C.: Congressional Quarterly Press, 2005), pp. 571–572.



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

1. How have the natural rights philosophy and classical republicanism influenced the way Americans think about citizenship today?

- What are the advantages and disadvantages of using the *jus soli* principle of national citizenship today?
- Should the Fourteenth Amendment be changed to reflect additional or different criteria for national citizenship? Explain.

2. “Civic engagement cannot substitute for political engagement or vice versa. The ‘gold standard’ for a democratic polity would be equitable and substantial participation in both the civic and the political spheres, and the ‘gold standard’ for a democratic citizen would be someone who is facile [accomplished] in both types of engagement.”* Do you agree or disagree? Why?

- Can civic and political engagement serve both one’s own interests and the public good? If so, how? If not, why not?
- Compared to older Americans, younger Americans are reasonably well engaged in civic life, but significantly less engaged in politics. Why do you think this is the case and what could or should be done about it?

* Cliff Zukin et al. *A New Engagement? Political Participation, Civic Life and the Changing American Citizen* (New York: Oxford University Press, 2006), pp. 9–10.

3. How is civil disobedience distinguished from direct or revolutionary attacks on constituted authority?

- How and why have Americans used civil disobedience throughout their history?
- Evaluate the role of civil disobedience as a form of political participation.