



We the People

THE CITIZEN AND THE CONSTITUTION

Directed by the Center for Civic Education

NATIONAL FINALS HEARING QUESTIONS ACADEMIC YEAR 2019–2020

Unit 1: What Are the Philosophical and Historical Foundations of the American Political System?

1. Benjamin Franklin asserted that “in free Governments the rulers are the servants, and the people their superiors & sovereigns.”* How is popular sovereignty enshrined in the Declaration of Independence and the Constitution?

- What is the significance of the idea that society and government are based on agreements rather than occurring naturally?
- Is unanimous consent necessary for a government based on popular sovereignty? Why or why not?

* Benjamin Franklin, speech to the Constitutional Convention, Philadelphia, July 26, 1787, “Madison Debates: July 26,” The Avalon Project, Yale Law School, https://avalon.law.yale.edu/18th_century/debates_726.asp.

2. Most early state constitutions provided for strong legislatures, bills of rights, and the principle of majority rule to protect the rights of citizens. How did the Constitution carry these ideas forward?

- What are the advantages and disadvantages of legislative supremacy?
- What role have the other two branches played in expanding or limiting the power of Congress?

3. Aristotle asserts in *Politics* that it is not the form of government—rule by the one, the few, or the many—that matters most, but rather the ends of government that are most important. Where in the Declaration of Independence and the Constitution did the Framers set forth the ends of government?

- How did the Framers differ, if at all, about how the ends of government should be prioritized?
- Which of the ends of government set forth in the Declaration and Constitution appear to have the highest priority today?



We the People

THE CITIZEN AND THE CONSTITUTION

Directed by the Center for Civic Education

NATIONAL FINALS HEARING QUESTIONS ACADEMIC YEAR 2019–2020

Unit 2: How Did the Framers Create the Constitution?

1. The states sent delegates to the Philadelphia Convention to join with other states “in devising and discussing all such alterations and further provisions, as may be necessary to render the Federal Constitution adequate to the exigencies of the Union.”* To what extent, if any, did the delegates follow their instructions?

- What experiences of state governments under their new constitutions after independence might have influenced the creation of the Constitution?
- Do the decisions of the U.S. Supreme Court function as a continuing constitutional convention? Why or why not?

* “Act Authorizing the Election of Delegates, 23 November 1786” in *The Documentary History of the Ratification of the Constitution, Volume I: Constitutional Documents and Records, 1776–1787*, eds. John P. Kaminski et al. (Madison: The State Historical Society of Wisconsin, 1976), 197, https://csac.history.wisc.edu/wp-content/uploads/sites/281/2017/07/delegate_inst2.pdf.

2. When considering the Constitution’s provisions on impeachment, one Anti-Federalist observed that “there will be but little probability of the president ever being either impeached or convicted.”* Has American history supported this view? Why or why not?

- What were the Federalists’ and Anti-Federalists’ thoughts about impeachment?
- Is this sentence from Article II, Section 4 of the Constitution an adequate standard for impeachment: “The President ... shall be removed from Office on Impeachment for, and Conviction of, Treason, Bribery, or other high Crimes and Misdemeanors”?

* Luther Martin, “Genuine Information IX,” January 29, 1788, Teaching American History, <https://teachingamericanhistory.org/library/document/genuine-information-ix/>.

3. In a letter, New York delegate John Lansing wrote that Alexander Hamilton argued “for the subversion of the State Government[s] so far as to reduce them to mere corporate Communities & that even in this Situation he supposed them dangerous to the general Government.”* Do you agree or disagree with Hamilton’s idea that the state governments posed a threat to the national government?

- To what extent, if any, did Alexander Hamilton’s ideas influence the ratification debates of 1787–88?
- What are the advantages and disadvantages of distributing power between the national and state governments?

* John Lansing Jr. to Abraham Yates Jr., June 28, 1788, Center for the Study of the American Constitution, University of Wisconsin–Madison, https://csac.history.wisc.edu/wp-content/uploads/sites/281/2017/07/assessments_90.pdf.



We the People

THE CITIZEN AND THE CONSTITUTION

Directed by the Center for Civic Education

NATIONAL FINALS HEARING QUESTIONS ACADEMIC YEAR 2019–2020

Unit 3: How Has the Constitution Been Changed to Further the Ideals Contained in the Declaration of Independence?

1. **“It [the spirit of party] serves always to distract the public councils and enfeeble the public administration. It agitates the community with ill-founded jealousies and false alarms, kindles the animosity of one part against another.”*** To what extent, if any, has American history proven George Washington’s view of political parties to be correct?

- What are the advantages and disadvantages of political parties?
- What are the advantages and disadvantages of two-party versus multi-party systems?

* George Washington, Farewell Address, September 19, 1796, “Washington’s Farewell Address 1796,” The Avalon Project, Yale Law School, https://avalon.law.yale.edu/18th_century/washing.asp.

2. **What has been the impact of the U.S. Supreme Court’s interpretation of the due process and equal protection clauses of the Fourteenth Amendment?**

- What is the significance of the use of the term *person* versus *citizen* in the interpretation and application of the due process and equal protection clauses of the Fourteenth Amendment?
- What are the advantages and disadvantages of the adversarial and inquisitorial systems of justice?

3. **In 2020, we celebrate the ratification of the Nineteenth Amendment, which recognized the right of women to vote. Despite recent controversy, the Equal Rights Amendment has not yet been declared ratified. What are the similarities and differences between these two amendments?**

- What impact, if any, has the Nineteenth Amendment had on women in achieving equality with men in the United States and around the world?
- What are the advantages and disadvantages of states passing their own equal rights amendments rather than ratifying a national constitutional amendment?



We the People

THE CITIZEN AND THE CONSTITUTION

Directed by the Center for Civic Education

NATIONAL FINALS HEARING QUESTIONS ACADEMIC YEAR 2019–2020

Unit 4: How Have the Values and Principles Embodied in the Constitution Shaped American Institutions and Practices?

1. In the 1793–94 Pacificus–Helvidius debates, Alexander Hamilton contended that the power to declare war was both legislative and executive in nature.* James Madison disagreed, saying that this power was exclusively legislative. Whose opinion do you favor and why?

- To what extent, if any, are Madison’s or Hamilton’s opinions relevant to the current understanding of the war-making power? Why?
- Francis Biddle, Franklin D. Roosevelt’s attorney general, noted that “the Constitution has never greatly bothered a wartime president.”** Has history proven this to be true? Why or why not?

* Alexander Hamilton and James Madison, *The Pacificus–Helvidius Debates of 1793–1794: Toward the Completion of the American Founding*, ed. Morton J. Frisch (Indianapolis: Liberty Fund, 2007), <https://oll.libertyfund.org/titles/hamilton-the-pacificus-helvidius-debates-of-1793-1794>.

** Scott M. Matheson Jr., *Presidential Constitutionalism in Perilous Times* (Cambridge, MA: Harvard University Press, 2009), 75.

2. Gerald N. Rosenberg wrote that “the structural constraints ... built into the American judicial system, make courts virtually powerless to produce change. They must depend on the actions of others for their decisions to be implemented.”* Do you agree or disagree with this view? Why?

- What role, if any, do you believe the courts should play in expanding civil rights?
- What recourse, if any, do individuals or groups have when they disagree with court decisions?

* Gerald N. Rosenberg, *The Hollow Hope: Can Courts Bring About Social Change?* 2nd ed. (Chicago: University of Chicago Press, 2008), 420.

3. Article I, Section 4 of the Constitution provides that state legislatures can determine the “Times, Places and Manner of holding Elections for Senators and Representatives” yet gives Congress the power to “make or alter such Regulations.” What are the advantages and disadvantages of a uniform election process?

- What responsibility do state legislatures, state election officials, and citizens have in maintaining free and fair elections?
- What are the advantages and disadvantages of the trustee and delegate theories of representation as they apply to congressional districts?



We the People

THE CITIZEN AND THE CONSTITUTION

Directed by the Center for Civic Education

NATIONAL FINALS HEARING QUESTIONS ACADEMIC YEAR 2019–2020

Unit 5: What Rights Does the Bill of Rights Protect?

1. The Virginia Declaration of Rights says that “religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience.”* To what extent, if any, are these ideas reflected in the religion clauses of the First Amendment?

- What threat, if any, does freedom of belief face today from the government or the people in the United States?
- What are the advantages and disadvantages of requiring the separation of church and state?

* Virginia Declaration of Rights, 1776, Section 16, America’s Founding Documents, National Archives and Records Administration, <https://www.archives.gov/founding-docs/virginia-declaration-of-rights>.

2. Richard Posner wrote that “the American public worries more about invasions of privacy than about summary proceedings against suspected terrorists, curtailments of the freedom of speech of the law-abiding, or the right of the media to publish government secrets.”* Do you agree or disagree with this statement? Why or why not?

- To what extent, if any, is privacy in jeopardy today?
- What protection, if any, do people have from privacy violations by governments or businesses?

* Richard A. Posner, *Not a Suicide Pact: The Constitution in a Time of National Emergency* (New York: Oxford University Press, 2006), 127.

3. “If there is any principle of the Constitution that more imperatively calls for attachment than any other, it is the principle of free thought—not free thought for those who agree with us, but freedom for the thought that we hate.”* To what extent has this view influenced American culture?

- What limits, if any, should government place on free speech?
- To what extent, if any, has social media influenced free speech?

* Justice Oliver Wendell Holmes Jr., dissenting opinion, *United States v. Schwimmer*, 279 U.S. 644, 654-55 (1929).



We the People

THE CITIZEN AND THE CONSTITUTION

Directed by the Center for Civic Education

NATIONAL FINALS HEARING QUESTIONS ACADEMIC YEAR 2019–2020

Unit 6: What Challenges Might Face American Constitutional Democracy in the Twenty-first Century?

1. In 1963, Dr. Martin Luther King Jr. said, “Never in the history of this nation have so many people been arrested for the cause of freedom and human dignity.”* What lessons can be learned from the Children’s March in Birmingham, Alabama?

- What is civic engagement, and what is its significance in American history?
- What responsibility, if any, do schools have to promote civic engagement?

* Martin Luther King Jr., *The Autobiography of Martin Luther King Jr.*, ed. Clayborne Carson (New York: Warner Books, 1998), Chapter 19: Freedom Now!, The Martin Luther King, Jr. Research and Education Institute, Stanford University, <https://kinginstitute.stanford.edu/chapter-19-freedom-now>.

2. Robert Dahl noted that the focus of most modern Americans’ lives is on “food, sex, love, family, work, play, shelter, comfort, friendship, social esteem, and the like. Activities like these—not politics—are the primary concerns of most men and women.”* What might have influenced Dahl to reach this conclusion, and is it relevant today? Why or why not?

- What relationship does Dahl’s assessment have to the principles of classical republicanism and natural rights philosophy?
- Should politics be a concern for people living in a democratic republic? Why or why not?

* Robert A. Dahl, *Who Governs? Democracy and Power in an American City*, 2nd ed. (New Haven: Yale University Press, 2005), 279.

3. Adam Smith wrote that “how selfish soever man may be supposed, there are evidently some principles in his nature, which interest him in the fortune of others, and render their happiness necessary to him, though he derives nothing from it, except the pleasure of seeing it.”* What evidence is there, if any, to support Adam Smith’s claim that people are naturally inclined to support the well-being of other people?

- How, if at all, does enlightened self-interest affect American capitalism?
- To what extent, if any, does American capitalism promote both individual liberty and the common good?

* Adam Smith, *The Theory of Moral Sentiments*, 11th ed. (London: Cadell & Davies, 1812), 1, https://www.google.com/books/edition/The_Theory_of_Moral_Sentiments/d-UUAAAAQAAJ?hl=en&gbpv=0