



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 2005 – 2006

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

1. How did the Founders distinguish between republican and democratic forms of government?

- Why do you think the Founders favored a republican form over a democratic form?
- Madison claimed that “no other form would be reconcilable with the genius of the people of America; with the fundamental principles of the Revolution.”* Do you agree or disagree? Why?

* *The Federalist Papers* No. 39.

2. What is the difference between a government with a constitution and a constitutional government?

- How does the American form of a constitutional government protect natural rights?
- One purpose of the limitations imposed by the American constitutional government is to check the power of the majority. How can this be justified in a political system that is based on popular sovereignty?

3. What is the rule of law and why is it important in a constitutional government?

- What are the essential elements of a rule of law in the United States?
- What are some historical milestones in the development of the rule of law in England and in the United States? What is the significance of each milestone?



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Unit Two: How did the Framers Create the Constitution?

1. What were the most significant differences between the Virginia and the New Jersey Plans?

- Which of the proposals in the Virginia Plan were accepted by the delegates to the Constitutional Convention? Which were rejected? Why?
- If you had been a delegate to the Constitutional Convention, would you have supported the Virginia Plan, the New Jersey Plan, the Connecticut Compromise, or an alternative? Explain your reasons.

2. What were the primary issues involving the judiciary at the Constitutional Convention and how were they resolved?

- Why was the question of judicial review left unanswered in the Constitution?
- What questions about the power of the federal judiciary are being raised today? Why?

3. What were the major arguments advanced by the Federalists and the Anti-Federalists in the debate over ratification?

- How did the arguments of the Federalists and Anti-Federalists reflect their points of view regarding natural rights, republicanism, and constitutionalism?
- What arguments advanced by the Anti-Federalists continue to arise in constitutional debates today?



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

1. The Judiciary Act of 1789 has been hailed as “a great law”* and as “the most important and the most satisfactory Act ever passed by Congress.” Do you agree or disagree?**

- What are the major provisions of the Judiciary Act of 1789?
- What evidence can you cite of the impact of the Judiciary Act of 1789 on our legal system today?

* Paul M. Bator “Judiciary Act of 1789” in *Encyclopedia of the American Constitution*, Leonard W. Levy, editor. (New York: MacMillan Publishing Company, 1986), p. 1075.

** Justice Henry B. Brown quoted in Kermit L. Hall et.al., *American Legal History: Cases and Materials*, second edition. (New York: Oxford University Press, 1996), p. 104.

2. What were the arguments against political parties that were advanced by the Framers?

- Why did political parties develop despite the Framers’ objections to them?
- What purposes do political parties serve today?

3. What is American federalism and how does it foster the goals expressed in the Preamble to the Constitution?

- How is the federal system created by the Constitution different from other forms of government?
- How viable is American federalism today? Provide examples to explain your response.



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

1. What were the major issues in the pre-Civil War debate over the meaning of the Constitution and of the Union?

- How did Southerners justify their claim that they had a constitutional right to secede from the Union? Do you agree or disagree with their justification? Why?
- What was the theory of perpetual union and how did President Lincoln and others use it to counter claims of a right of secession? Do you agree or disagree with Lincoln's theory? Why?

2. What basic American values and principles are expressed in the Fourteenth Amendment?

- Which of the provisions of the Fourteenth Amendment do you think have proved to be the most important and far-reaching? What evidence can you provide to support your position?
- How are the equal protection and due process clauses related to the rule of law?

3. "Here in ... the Declaration [of Independence] is the assertion of the natural right of all to the ballot; for how can 'the consent of the governed' be given, if the right to vote be denied?"* Do you agree or disagree? Why?

- Is the right to vote a natural right? Why or why not?
- What limits, if any, should be placed on the citizens' right to vote? Why?

* Susan B. Anthony. Speech before her trial for voting, 1873. Quoted in *The Oxford Dictionary of Political Quotations*, Anthony Jay, editor. (New York: Oxford University Press, 2001), p. 12.



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

1. The First Amendment provides that “Congress shall make no law respecting an establishment of religion.” What does the prohibition against “establishment” mean?

- What criteria should courts use in deciding whether providing chaplains for the armed forces and for prisoners violates the Establishment Clause? Why?
- What criteria should courts use to determine whether prayer in public schools or public displays of religious symbols such as crèches, menorahs, or the Ten Commandments violate the Establishment Clause? Why?

2. The First Amendment provides that “Congress shall make no law ... abridging the freedom of speech or of the press.” Why is the protection of those rights important?

- Should the First Amendment be interpreted to protect only political speech and the press? Are these the only freedoms necessary to democratic government? Why or why not?
- Under what circumstances, if any, should freedom of speech or the press be limited? Why?

3. How does the Eighth Amendment protect the rights of those accused of crimes, both before trial and after conviction?

- What is the relationship of the rights protected by the Eighth Amendment and the natural rights philosophy?
- How should decisions about bail, fines, and punishment be made and by whom? Why?



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

- 1. What criteria, if any, should be used to distinguish between the rights and responsibilities of citizens and the rights and responsibilities of legal resident aliens?**
 - Under what circumstances, if any, should legal resident aliens be permitted to vote?
 - Does the counting of illegal aliens for purposes of representation in Congress dilute the rights of citizens and/or legal resident aliens? Why or why not?

- 2. What evidence, if any, is there that the truths in the Declaration of Independence that Americans hold as “self-evident” are being recognized in other nations?**
 - Which American institutions and practices, if any, do you think are adaptable by other nations? Why?
 - What do you think the phrase “a decent respect for the opinions of mankind” in the Declaration of Independence should mean today?

- 3. Alexis de Tocqueville observed that Europeans preferred to let government solve all public problems, while Americans preferred to solve problems themselves through voluntary associations. In what ways, if any, is Tocqueville’s observation about Americans still true?**
 - What ideas of natural rights and classical republicanism support voluntary associations?
 - What relationship, if any, do you see between the First Amendment rights of assembly and petition and the ability of Americans to address public problems?