



## 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 2011–2012

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

- 1. How would you distinguish between a government with a constitution and a constitutional government? Why is that distinction important?**
  - Why is a constitution considered a higher law? What are the major characteristics of a higher law?
  - What are the advantages and disadvantages of a written constitution?
- 2. Compare the major purposes of government according to classical republicanism with the major purposes according to the natural rights philosophy.**
  - When classical republicans spoke of the “office” of citizen, what did they mean?
  - Classical republican thinkers believed that civic virtue must be learned, therefore all young people must receive moral education. Do you agree or disagree? Why?
- 3. Although the states experimented with various models in writing their new constitutions, all of them included some basic principles. What were those basic principles and why were they important?**
  - How would you explain *legislative supremacy* and why did most states favor it?
  - What ideas drawn from the natural rights philosophy were reflected in the new state constitutions?



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#### Unit Two: How Did the Framers Create the Constitution?

**1. The Articles of Confederation reflected a distrust of a strong national government. What were the historical and philosophical reasons for this distrust?**

- What did the Founders learn from the Articles' inadequacies and how did they correct them in the Constitution?
- Today many people are again expressing a distrust of national government. What are their reasons for distrust and how justified are they? What evidence can you offer to support your response?

**2. Evaluate the rules that the delegates adopted to govern debates in the Philadelphia Convention.**

- Define *civil discourse*. Which rules adopted at the Convention furthered it? Which rules hindered it?
- How would you rate the civility of public discourse and debate today and what, if anything, could be done to enhance it?

**3. How does the Constitution balance state powers with powers granted to the national government?**

- How does the Constitution limit each set of powers?
- What issues did the Philadelphia Convention leave unaddressed and what have been the consequences of the failure to address them?



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

1. “The weakening of the older social hierarchy and the erosion of the traditional belief in elite rule made the rise of political parties both necessary and possible.”\* Do you agree or disagree with this opinion recently expressed by an American scholar? What evidence can you offer to support your position?

- How would you distinguish between a faction and a political party and how important is that distinction? \*\*
- How do political parties in a democracy differ from ideological parties and why are those differences important?

\* Gordon S. Wood. *The Idea of America: Reflections on the Birth of the United States*. (New York: The Penguin Press, 2011) 203.

\*\* For the classic definition of a faction see *Federalist 10*.

2. How and why did the Fourteenth Amendment enlarge and extend due process rights?

- The Constitution does not define *due process of law*. How would you explain the meaning of *due process of law*?
- In what ways are procedural and substantive due process alike? How are they different?

3. What are the major differences between the adversary and the inquisitorial systems of justice?

- What procedural guarantees embedded in the U.S. Constitution protect the rights of an individual accused of a crime?
- Evaluate the arguments advanced by critics of the adversary system that it is costly, slow, and should be replaced by the inquisitorial system.



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

**1. Compare the U.S. Congress with the British Parliament. In what important ways are they alike? In what important ways are they different?**

- What do you think are the advantages and disadvantages of the congressional system?
- What do you think are the major advantages and disadvantages of a parliamentary system? Why?

**2. How does the role of the American president differ from that of a prime minister?**

- In Britain, the prime minister must have served in Parliament prior to assuming that office. Should the U.S. Constitution be amended to require prior government service of candidates for the presidency? Why or why not?
- In parliamentary systems, the roles of *head of state* (a ceremonial official) and *head of government* (an official who makes and implements decisions) are separated. Would you favor or oppose such a separation in the United States? Why?

**3. The Framers “wrestled with the language of Article II, Section 1 to give the president *sufficient* power without giving him *excessive* power, as well as how to free him from excessive dependence on the legislature while at the same time assuring that he did not become an elective monarch.”\* To what extent have the Framers hopes been realized? What evidence can you offer to support your position?**

- Article II, Section 1 gives the president *executive power* but does not define what that power is. How would you define *executive power*? What examples can you cite of presidents using their *executive power*?
- How can Congress check the exercise of the president’s power?

\* Richard Beeman. *Plain, Honest Men: The Making of the American Constitution*. (New York: Random House, 2009) 348–349.



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

##### 1. How do the Fifth and Sixth Amendments protect the rights of criminal defendants?

- What is the relationship between the right of trial by jury to the natural rights philosophy and to the principle of limited government?
- One of the rights guaranteed in the Sixth Amendment is the right to a public trial in all criminal proceedings. What purposes are served by public trials?

##### 2. The First Amendment with its protection of freedom of speech and press has been described as being “at the heart of American democracy.”\* Do you agree or disagree with that description? Why or why not?

- Why is the right to freedom of expression important to the individual and to the society as a whole?
- Under what circumstances, if any, are limitations on freedom of speech and press consistent with the intent of the First Amendment? Why?

\*Geneva Oberholzer and Kathleen Hall Jamieson. “Afterword” in *The Press in the Institutions of Democracy* Series. (New York: Oxford University Press, 2005) 433–441.

##### 3. Why are the rights to assemble, petition, and associate fundamental to constitutional democracy?

- What groups have used these rights to bring about important changes in American political and civic life?
- What limitations, if any might government place on these rights and how can they be justified?



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

**1. How would you explain federalism and why do you think many countries have adopted variations of the American model of federalism?**

- What are the major advantages of federalism? Disadvantages?
- In *Federalist 51*, James Madison argued that the division of power between “two distinct governments” would allow state and federal governments to check each other, providing security to the “rights of the people.” Has history proven him right? What evidence can you offer to support your answer?

**2. The Bill of Rights has been called “the single greatest contribution of American constitutionalism to the world.” It is deserving of such high praise? What evidence can you offer to support your answer?**

- “A bill of rights is what the people are entitled to against every government on earth ... and what no just government should refuse or rest on inferences.”\* In what ways does this claim draw on the natural rights philosophy?
- How and why has the Bill of Rights continued to serve as an inspiration to peoples across the world today?

\*Thomas Jefferson to James Madison. Paris, December 20, 1787. Letter reprinted in *Something that Will Surprise the World: The Essential Writings of the Founding Fathers*. Susan Dunn, ed. (New York: Basic Books, 2006) 281.

**3. “For one thing is certain: the greatest threats to constitutional government spring from the paucity (lack) of serious public discourse, and this from an uninformed public.”\* Do you agree or disagree with the opinion expressed here? Why?**

- What rules did the Framers establish to ensure serious, fair discussion at the Philadelphia Convention, and are those rules still useful today?
- What responsibility, if any, do schools have for teaching students how to engage in informed civil discourse? Why?

\*Richard C. Leone in *New Federalist Papers: Essays in Defense of the Constitution*. Alan Brinkley, Nelson W. Polsby, and Kathleen M. Sullivan, eds. (New York: W.W. Norton & Co., 1997) ix.