



# We the People

THE CITIZEN AND THE CONSTITUTION

Directed by the Center for Civic Education

## NATIONAL INVITATIONAL HEARING QUESTIONS ACADEMIC YEAR 2019–2020

### Unit 1: What Were the Founders' Basic Ideas about Government?

1. **“Rights [natural rights] and republicanism [classical republicanism] may be said to be the twin pillars of the American political tradition. ... it is hard for us at first to credit any suggestion that there may be some tension or problem in their coexistence.”\*** Do you agree or disagree with this statement by political scientist Thomas Pangle? Why?

- What might be the tensions between these two principles? How might they reinforce each other?
- How successful has the Constitution been in reconciling those tensions? What evidence supports your position?
- Where does a third “R”—responsibilities—fit into our political tradition?

\* Thomas L. Pangle, *The Ennobling of Democracy: The Challenge of the Postmodern Age* (Baltimore: The Johns Hopkins University Press, 1993), 93.

### 2. What is a constitution, and what is a constitutional government?

- What is republican government?
- How can constitutional governments be organized to prevent the abuse of power and protect natural rights?
- How can higher or fundamental law be distinguished from statutory or “ordinary” law that governments regularly create and enforce?

3. **“If man in the state of nature be so free as has been said; if he be absolute lord of his own person and possessions, equal to the greatest, and subject to nobody, why will he part with his freedom? ... and subject himself to ... any other power?”\*** How did John Locke answer these questions?

- According to John Locke and Thomas Jefferson, what is “natural law” in a state of nature? Do you agree or disagree with their reasoning? Why?
- What did Locke mean by the “social contract”? Why did he think it necessary?
- What obligations does the social contract place on government and on the individual?

\* John Locke, *Second Treatise of Government*, 1689, Chapter 9, “Of the Ends of Political Society and Government,” in *John Locke: Political Writings*, edited and with an introduction by David Wootton (Indianapolis: Hackett Publishing Company, Inc., 2003), 324.



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### Unit 2: What Shaped the Founders' Thinking about Government?

**1. “The confederation itself is defective and requires to be altered; it is neither fit for war, nor peace.”\* Do you agree or disagree with Alexander Hamilton? What were the strengths and weaknesses of the Articles of Confederation?**

- What problems, if any, did the Founders face in writing the Articles of Confederation?
- What impact, if any, did Shays' Rebellion have on the Founders' thinking about government?
- What is the significance of the Northwest Ordinance of 1787?

\* Alexander Hamilton to James Duane, September 3, 1780, letter reprinted in *Something That Will Surprise the World: The Essential Writings of the Founding Fathers*, ed. Susan Dunn (New York: Basic Books, 2006), 113.

**2. In the Declaration of Independence, Thomas Jefferson stated that “governments are instituted among men, deriving their just powers from the consent of the governed.” From what sources do the people derive the right to establish government?**

- How is the “consent of the governed” related to the concept of popular sovereignty?
- Does natural rights philosophy justify a right to revolution? Why or why not?
- Why might the principles and practices of self-government contained in the Declaration of Independence have been considered radical at the time?

**3. Why have the Magna Carta, the Petition of Right, and the English Bill of Rights been called “the landmark English charters of liberty”?\* What important constitutional rights did they establish?**

- How are these three “charters of liberty” related to natural rights philosophy?
- How are these charters of liberty related to classical republicanism?
- Some scholars claim that the Magna Carta has perhaps shaped the modern world more than any other document. Do you agree or disagree? Why?

\*Akhil Reed Amar and Les Adams, *The Bill of Rights Primer: A Citizen's Guidebook to the American Bill of Rights* (New York: Skyhorse Publishing, 2013), 201.



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### Unit 3: What Happened at the Philadelphia Convention?

**1. In the Virginia Plan, James Madison proposed proportional representation in both houses of Congress. The delegates rejected Madison’s proposal in favor of the Great Compromise. What is the Great Compromise, and how was it justified?**

- Do you think the Founders’ justification is acceptable today? Why or why not?
- What are the advantages and disadvantages of equal representation in the Senate?
- What are the advantages and disadvantages of changing the Senate to proportional representation?

**2. What were the Founders’ ideas about presidential powers, and how has presidential power changed throughout American history?**

- What are the qualifications for president, and how should presidents be selected?
- What role, if any, does Congress and the Supreme Court have in checking actions of the president?
- How much power, if any, does the president have for making war?

**3. “No society, certainly not a large and heterogeneous one, can fail in time to explode if it is deprived of the art of compromise.”\* Do you agree or disagree with this opinion?**

- What compromises were made at the Constitutional Convention of 1787?
- What are benefits and costs of those compromises?
- “No good society can be unprincipled; and no viable society can be principle-ridden.”\*\* Do you agree or disagree with this statement? Why or why not?

\* Alexander M. Bickel, *The Least Dangerous Branch*, 2nd ed., (New Haven, CT: Yale University Press, 1986), 64.

\*\* Ibid.



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### Unit 4: How Was the Constitution Used to Establish Our Government?

**1. “Contemporary political scientists suspect that democratic politics is fundamentally unworkable without parties and partisanship. Parties connect the ordinary citizen to government and politics and offer them broad policy choices.”\* Do you agree or disagree? Why?**

- Given that some Founders were concerned about political parties, how did political parties develop?
- In what ways, if any, does the American two-party system promote liberty and the common good?
- What are the advantages and disadvantages of a multi-party system like those practiced in democratic republics around the world?

\* Rick Valelly, “Who Needs Political Parties?” in *Princeton Readings in American Politics*, ed. Richard M. Valelly (Princeton, NJ: Princeton University Press, 2009), 513.

**2. An American historian claims that the ratification debates were “one of the greatest and most probing public debates in American history.”\* Do you agree or disagree? Why? What evidence can you offer to support your response?**

- Evaluate the major arguments the Federalists advanced in support of the ratification of the Constitution.
- Evaluate the major arguments the Anti-Federalists put forth in opposition to ratification of the Constitution.
- Why did a Bill of Rights become a focal point for both the Federalists and the Anti-Federalists?

\* Pauline Maier, *Ratification: The People Debate the Constitution, 1787–1788* (New York: Simon & Schuster, 2010), ix.

**3. “If a law has been properly passed by the law-making branches of a democratic government, why should judges have the power to declare it unconstitutional?”\* Should judges have the power to declare laws unconstitutional? Why or why not?**

- What is judicial review, and why is it controversial?
- What has been the impact of judicial review on American society?
- Once the Supreme Court has decided that a law is unconstitutional, what power, if any, do the people have to change the Constitution?

\* Robert A. Dahl, *How Democratic is the American Constitution?* (New Haven: Yale University Press, 2003), 55.



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### Unit 5: How Does the Constitution Protect Our Basic Rights?

1. **“When a choice must be made, it is better to allow those who preach racial hate to expend their venom in rhetoric rather than to be panicked into embarking on the dangerous course of permitting the government to decide what its citizens may say and hear.”\*** Do you agree or disagree with Judge Bernard Decker’s upholding the rights of Nazis to march in Skokie, Illinois? Why?

- What limits has the U.S. Supreme Court placed on freedom of expression?
- What benefit, if any, is there from the presentation of ideas that are designed to alarm, antagonize, and offend members of society?
- What limits on freedom of expression, if any, should be placed on social media platforms?

\* Collin v. Smith, 447 F. Supp. 676 (ND Ill.1978).

2. **Political and social movements in American history have been successful because of the right of assembly. President Abraham Lincoln wrote in a letter that “the right of peaceable assembly” is part of the “Constitutional substitute for revolution.”\*** Do you agree or disagree with President Lincoln? Why?

- What is the history of freedom of assembly in America?
- What historical or contemporary evidence is there, if any, that political and social movements have led to significant changes in laws or policies?
- What limits, if any, should be placed on the right to freedom of assembly?

\* Abraham Lincoln to Alexander H. Stephens, January 19, 1860, in Gilbert A. Tracy, ed., *Uncollected Letters of Abraham Lincoln* (Boston and New York: Houghton Mifflin Company, 1917), 127.

3. **In 2020, we celebrate the ratification of the Nineteenth Amendment, which recognized the right of women to vote. What impact, if any, has the Nineteenth Amendment had on women achieving equality with men in the United States and around the world?**

- What are the advantages and disadvantages of universal suffrage?
- What are the advantages and disadvantages of passing an equal rights amendment?
- What policies, if any, can the government adopt to ensure that women have a voice in elections?



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### Unit 6: What Are the Responsibilities of Citizens?

**1. According to the American Immigration Council, “immigration law in the United States has been built upon the following principles: the reunification of families, admitting immigrants with skills that are valuable to the U.S. economy, protecting refugees, and promoting diversity.”\* Does today’s immigration policy reflect these principles? Why or why not?**

- What are the major cultural and political issues regarding immigration that face America today?
- What changes, if any, should be made to our current immigration policy?
- Should the United States admit more refugees in view of the worldwide crisis of displaced persons? Why or why not?

\* “Fact Sheet: How the United States Immigration System Works,” American Immigration Council, October 10, 2019, <https://www.americanimmigrationcouncil.org/research/how-united-states-immigration-system-works>.

**2. What are the rights and responsibilities of citizenship in a democratic republic?**

- How important, if at all, is voting to maintaining a vibrant democratic republic?
- How best do citizens promote both self-interest and the common good?
- Do you have an obligation to follow the law even if you believe the law is unjust? Why or why not?

**3. What role, if any, should the United States play in helping other nations or promoting democratic ideas and principles around the world?**

- What are the advantages and disadvantages of nation-states?
- What criteria should be used to determine which countries should be helped and what kind and level of help the United States should offer these countries?
- In what ways do nations of the world interact with each other?