



# We the People

THE CITIZEN AND THE CONSTITUTION

Directed by the Center for Civic Education

## STATE HEARING QUESTIONS 2020–2021

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

- 1. Many in the founding generation looked to the Roman Republic for guidance, including the classical republican notion of the common good. To what extent did the U.S. Constitution embody the idea of the common good?**
  - To what extent, if any, does the ideal of a common good conflict with the ideas of natural rights philosophy?
  - How does a diverse country such as the United States, with over 330 million people, achieve the ideal of a common good?
- 2. The Magna Carta of 1215 included the principle of the rule of law. What is the rule of law and how does our Constitution embrace this principle?**
  - To what extent have our institutions and Constitution been adequate guardians of the rule of law?
  - Is the rule of law necessary to protect the liberties of all persons? Why or why not?
- 3. The Declaration of Independence includes a list of twenty-eight specific grievances against King George and Parliament, often referred to as a bill of particulars. To what extent, if any, do these grievances serve as a foundation for the U.S. Constitution?**
  - Although most commonly associated with natural rights philosophy, how does the Declaration of Independence reflect classical republican ideas, if it does at all?
  - What role, if any, does or should the Declaration of Independence play in contemporary governance?



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

**1. Patrick Henry famously quipped that he did not attend the Philadelphia Convention because he “smelt a rat.”\* What would have led him to such a conclusion?**

- In your opinion, did the plans of government discussed at the convention support Henry’s suspicions?
- To what extent, if any, did the delegates at the Philadelphia Convention represent the interests of the American people at the time?

\*Thomas S. Kidd, *Patrick Henry: First Among Patriots* (Philadelphia: Basic Books, 2011), 183.

**2. During the ratification debates, one Anti-Federalist observed that the Constitution “proves upon examination to be the most odious system of tyranny that was ever projected, a many headed hydra of despotism.”\* What features within the Constitution might lead one to such a conclusion?**

- How did Federalists counter such accusations made by critics of the Constitution?
- To what extent, if any, is hyperbole appropriate in political discourse?

\* Centinel XII, *Philadelphia Independent Gazetteer*, January 23, 1788, Teaching American History, <https://teachingamericanhistory.org/library/document/centinel-xii/>.

**3. One view of the Articles of Confederation was that the equality among the states was “founded in reason, and its propriety is evinced by experience.”\* What experiences in the colonial period might have produced such a position?**

- What were the strengths and weaknesses of the Articles of Confederation?
- What amendments, if any, to the Articles of Confederation would have given them more viability?

\* A Federal Republican, “A Review of the Constitution,” November 28, 1787, in *The Documentary History of the Ratification of the Constitution*, edited by John P. Kaminski, Gaspare J. Saladino, Richard Leffler, Charles H. Schoenleber and Margaret A. Hogan, via ConSource, <https://www.consource.org/document/a-federal-republican-a-review-of-the-constitution-1787-11-28/#16>.



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

**1. Thomas Jefferson stated that “I had rather ask an enlargement of power from the nation where it is found necessary, than to assume it by a construction which would make our powers boundless. Our peculiar security is in the possession of a written constitution. Let us not make it a blank paper by construction.”\* Did the addition of amendments reduce our written framework of government to a “blank paper”?**

- What are the advantages and disadvantages of the amendment process in Article V?
- What other methods, if any, have been used to extend powers and liberties beyond the written Constitution?

\* Thomas Jefferson to Wilson Cary Nicholas, September 7, 1803, in *The Papers of Thomas Jefferson, Volume 41: 11 July to 15 November 1803* (Princeton University Press, 2014), 346-8, <https://jeffersonpapers.princeton.edu/selected-documents/wilson-cary-nicholas-0>.

**2. The Civil War has been called a “second American Revolution.”\* How did both Northern and Southern states use the Declaration of Independence and the Constitution as foundations for their positions?**

- To what extent did the Civil War expand both federal powers and personal rights?
- Did the changes that resulted from the Civil War revolutionize the government, or did they clarify and validate the principles in our founding documents?

\* James M. McPherson, *Abraham Lincoln and the Second American Revolution* (New York: Oxford University Press, 1991), 7.

**3. Nowhere in the U.S. Constitution, other than in the amendments, is there an explicit declaration of the right to vote. What provisions, if any, imply a right to vote in the body of the Constitution?**

- How, if at all, has the right to vote been explicitly expanded?
- In what ways, if any, is it legitimate to limit voting rights? Do you agree with these limitations? Why or why not?



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

1. **Should states be willing “to purchase’ what [James] Wilson called ‘federal liberty’ with ‘the necessary concession of their political sovereignty’”?\* Why or why not?**

- How would you explain American federalism to a non-American?
- Explain how ideological groups, at different times, have been in favor of shifting power between state and national governments.

\* Jack Rakove, *Original Meanings: Politics and Ideas in the Making of the Constitution* (New York: Vintage Books, 1997), 163.

2. **“On a single day in 1964, the [Supreme] Court in effect declared that almost all state governments were constitutionally defective! ... Thus, a bloodless revolution occurred without a shot fired.”\* Do you agree or disagree with Akhil Reed Amar’s statement regarding the Supreme Court’s opinion in *Reynolds v. Sims*? Why or why not?**

- How well have the national and state governments done in preserving the “one person, one vote” doctrine?
- What are some of the current issues associated with redistricting?

\* Akhil Reed Amar, *America’s Unwritten Constitution* (New York: Basic Books), 2013, 194.

3. **“The doctrine of the separation of powers was adopted by the Convention of 1787 not to promote efficiency, but to preclude the exercise of arbitrary power.”\* How well has the Constitution’s design accomplished what Justice Brandeis described? Explain your position.**

- Which branch has been most constrained by its constitutional limits? Explain your position.
- Which branch has gone beyond its constitutional constraints? Explain your position.

\* Justice Louis Brandeis’s dissent in *Myers v. United States*, 272 U.S. 52 (1926).



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

**1. The “very essence of the liberty” guaranteed by the Constitution “is the freedom of the individual from compulsion as to what he shall think and what he shall say.”\* Do you agree or disagree with Justice Stone? Why?**

- Do you think the right to freedom of expression is the most important right guaranteed by the Constitution? Explain your position.
- What limits, if any, have courts placed on our right to think and speak as we wish?

\* Justice Harlan Stone’s dissent in *Minersville School District v. Gobitis*, 310 US 586 (1940).

**2. “Instantaneous photographs and newspaper enterprise have invaded the sacred precincts of private and domestic life; and numerous mechanical devices threaten to make good the prediction that ‘what is whispered in the closet shall be proclaimed from the house-tops.’”\* Where, if at all, is the right to privacy reflected in the U.S. Constitution?**

- What other important rights, if any, are related to the right to privacy? Explain your position.
- What are the most current threats to the right to privacy? Explain your position.

\* Louis Brandeis, 4 *Harvard Review* 193, 1890, <https://www.jstor.org/stable/pdf/1321160.pdf>.

**3. The Ninth Amendment to the Constitution says, “The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.” What rights, if any, not listed in the Bill of Rights or the U.S. Constitution should be retained by the people?**

- What branch of government is best suited to establish legal rights? Why?
- What role, if any, do people have in establishing their moral and legal rights?



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

1. **“The U.S. Department of State leads America’s foreign policy through diplomacy, advocacy, and assistance by advancing the interests of the American people, their safety and economic prosperity.”\* Do you agree or disagree with this mission statement? Explain your position.**

- What current international matters or situations do you think are of most concern for the United States? Why? How can our foreign policy deal with these concerns?
- What role, if any, do nongovernmental organizations and corporations play in helping to shape U.S. foreign policy?

\* “Mission,” About the U.S. Department of State, U.S. Department of State, accessed August 27, 2020, <https://www.state.gov/about/about-the-u-s-department-of-state/>.

2. **“Get in good trouble, necessary trouble, and help redeem the soul of America.”\* What is the significance of the words expressed by the late U.S. Representative John Lewis?**

- What are some current examples of people getting into “good trouble, necessary trouble” to “help redeem the soul of America”?
- What lessons from the civil rights movement of the 1950s and 1960s can we apply to present-day struggles?

\* John Lewis, speech, Edmund Pettus Bridge, Selma, Alabama, March 1, 2020.

3. **“The Cherokee nation, then, is a distinct community, occupying its own territory, ... in which the laws of Georgia can have no force. ... The whole intercourse between the United States and this nation is, by our Constitution and laws, vested in the Government of the United States.”\* What is the relationship between Native American tribes and the national government?**

- Given the Indian Civil Rights Act of 1968, how sovereign are Native American nations today?
- What are some of the issues facing Native American tribes today?

\* Worcester v. Georgia, 31 U.S. 515 (1832).