



We the People

THE CITIZEN AND THE CONSTITUTION

Directed by the Center for Civic Education

NATIONAL INVITATIONAL HEARING QUESTIONS ACADEMIC YEAR 2021–2022

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

1. 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?

2. “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 the individual?

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



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

1. The Declaration of Independence says, “We hold these truths to be self-evident, that all men are created equal.” The American philosopher Isaiah Berlin said that ““every man to count for one and no one to count for more than one’ ... appears, more than any other formula, to constitute the irreducible minimum of the ideal of equality.”* Do you agree or disagree with this idea? Explain your position.

- Since people are not equal in their knowledge, skills, and abilities, why, if at all, should everyone have equal political rights? Explain your position.
- What evidence is there of political inequality in the United States today, and what, if anything, do you think should be done about it? Explain your position.
- Is equality of condition the same thing as political equality? Explain your answer.

* Isaiah Berlin, “Equality,” in *Equality and Justice: Volume 2, The Demands of Equality*, ed. Peter Vallentyne (New York/London: Routledge, 2003), 41.

2. Alexander Hamilton claimed that the national government was too weak during the Revolutionary War and that a stronger national government was needed. What evidence supports Hamilton’s position?

- What were the strengths of the Articles of Confederation?
- What were the weaknesses of the Articles of Confederation?
- What were the efforts to amend the Articles of Confederation, and why did they fail?



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Unit 3: What Happened at the Philadelphia Convention?

1. One historian has suggested that the secrecy rule of the Philadelphia Convention allowed a “group of elite nationalists ... some space to maneuver independent of public opinion.”* What were the reasons for the secrecy rule?

- In your opinion, were any of these reasons legitimate?
- What other rules of the convention, if any, were as important as the secrecy rule?
- In your opinion, are there any circumstances that warrant government proceedings to be shielded from public scrutiny?

* Michael J. Klarman, *The Framers' Coup: The Making of the United States Constitution* (New York: Oxford University Press, 2016), 253.

2. “No society, certainly not a large and heterogeneous one, can fail in time to explode if it is deprived of the arts of compromise. ... No good society can be unprincipled; and no viable society can be principle-ridden.”* Do you agree or disagree with this opinion?

- What compromises were made at the Constitutional Convention of 1787?
- What are the benefits and costs of those compromises?
- How would you distinguish between someone who is “unprincipled” and someone who is “principle-ridden”?

* Alexander M. Bickel, *The Least Dangerous Branch: The Supreme Court at the Bar of Politics*, 2d edition (New Haven: Yale University Press, 1986), 64.



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

1. An American historian claimed 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 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.

2. “To judge from the conduct of the opposite parties, ... they will mutually hope to evince the justness of their opinions, and to increase the number of their converts by the loudness of their declamations, and by the bitterness of their invectives.”* Do you agree or disagree with this description of political parties?

- What are the advantages of political parties?
- What are the disadvantages of political parties?
- In what ways does America’s two-party system promote or thwart American constitutional principles?

* Publius, Federalist 1, *Independent Journal*, October 27, 1787, Center for the Study of the American Constitution, University of Wisconsin–Madison, <https://csac.history.wisc.edu/wp-content/uploads/sites/281/2017/07/1.pdf>.



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

1. **“The Religion then of every man must be left to the conviction and conscience of every man; and it is the right of every man to exercise it as these may dictate.”* Do you agree with James Madison? Why or why not?**

- How have the courts interpreted the establishment clause of the First Amendment?
- How is the establishment clause different from the free exercise clause of the First Amendment?
- How is the right of free exercise of religion balanced against other interests of society?

* James Madison, “Memorial and Remonstrance against Religious Assessments, [CA. 20 June] 1785,” June 20, 1785, Founders Online, National Archives, accessed February 4, 2022, <https://founders.archives.gov/documents/Madison/01-08-02-0163>.

2. **The U.S. Supreme Court held that an Ohio law violated Clarence Brandenburg’s right to speech in *Brandenburg v. Ohio*. Do you agree or disagree with the Court’s decision?**

- Under what conditions, if any, should freedom of expression be limited?
- Are there any other “tests” used by the Supreme Court that should apply today? Explain your response.
- Why is freedom of expression a necessary part of representative government?



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Unit 6: What Are the Responsibilities of Citizens?

1. National citizenship is conferred as follows: “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.”* Should this be changed to reflect additional or different criteria for national citizenship? Why or why not?

- What are the rights and responsibilities of citizenship?
- Should citizenship be required for voting in elections? Why or why not?
- What are the opposing positions regarding birthright citizenship, and what might be the consequences of either side prevailing? Explain your position.

* Fourteenth Amendment, 1868.

2. “The Americans, on the contrary, are fond of explaining almost all the actions of their lives by the principle of interest rightly understood; they show with complacency how an enlightened regard for themselves constantly prompts them to assist each other, and inclines them willingly to sacrifice a portion of their time and property to the welfare of the State.”* What is the meaning of the concept of self-interest “rightly understood”?

- Does that meaning still apply today? Explain your answer.
- What role, if any, does participating in civil society have for a well-functioning democracy?
- Should schools require community service in order to promote the concept of self-interest rightly understood? Why or why not?

* Alexis de Tocqueville, *Democracy in America*, trans. Henry Reeve (Washington, D.C.: Regnery, 2002), 484.