



# We the People

THE CITIZEN AND THE CONSTITUTION

Directed by the Center for Civic Education

## NATIONAL FINALS HEARING QUESTIONS ACADEMIC YEAR 2021–2022

### Unit 1: What Are the Philosophical and Historical Foundations of the American Political System?

- 1. In what ways, if any, are the concepts of *civic virtue* in the classical republican tradition and *private morality* in the Judeo–Christian tradition similar or different?**
  - How did the Enlightenment impact the Founders’ views of civic virtue, private morality, and the relationship between the people and their government?
  - To what extent, if any, does morality or civic virtue matter in 21st-century governance?
- 2. The foundation for good government is the rule of law. John Adams once wrote, “good government, is an empire of laws.”\* How, if at all, is the rule of law embedded in our founding documents?**
  - What challenges to the rule of law, if any, have we experienced in our history?
  - In what ways, if any, has the rule of law been important to the preservation of a free society?

\* John Adams, “Thoughts on Government,” April 1776, in *The Founders’ Constitution*, ed. Philip B. Kurland and Ralph Lerner, Chapter 4, Document 5, <https://press-pubs.uchicago.edu/founders/documents/v1ch4s5.html>.



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### Unit 2: How Did the Framers Create the Constitution?

**1. When considering the necessary and proper clause, one Anti-Federalist wrote that “under such a clause as this can any thing be said to be reserved and kept back from Congress? ... What limits are there to their authority?—I fear none at all.”\* Why did the necessary and proper clause create such concern for many Americans at that time?**

- What were the Federalists’ responses to Anti-Federalist arguments regarding this clause?
- To what extent, if any, are both groups’ views relevant today?

\* “An Old Whig II,” essay, October 17, 1787, Teaching American History, <https://teachingamericanhistory.org/document/an-old-whig-ii/>.

**2. When explaining why the proposed Constitution lacked a bill of rights, one Federalist claimed that “in a government possessed of enumerated powers, such a measure would be not only unnecessary, but preposterous and dangerous.”\* Do you agree or disagree with this statement? Why or why not?**

- In your opinion, did the first 10 amendments to the Constitution sufficiently address the concerns of the Anti-Federalists?
- To what extent, if any, should we consider adding additional amendments to our Constitution?

\* James Wilson Speech, Pennsylvania Ratifying Convention, November 28, 1787, Center for the Study of the American Constitution, University of Wisconsin–Madison, [https://csac.history.wisc.edu/wp-content/uploads/sites/281/2017/07/3\\_James\\_Wilson\\_Speech.pdf](https://csac.history.wisc.edu/wp-content/uploads/sites/281/2017/07/3_James_Wilson_Speech.pdf).



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### Unit 3: How Has the Constitution Been Changed to Further the Ideals Contained in the Declaration of Independence?

**1. The right to vote was not expressly included in the U.S. Constitution of 1787. In your opinion, was the implied right to vote in the Constitution sufficient for the creation of a representative democracy?**

- How did the expansion of voting rights affect the evolution of democracy in our country? Please give examples.
- Which is the greater threat to democracy, disenfranchisement or fraud? Explain your position.

**2. “The Fourteenth Amendment and its grand ideal of equality under the law have meant no more than succeeding generations were willing for them to mean.”\* To what extent, if any, have societal changes impacted the ideal of equality under the law?**

- Is the legal analysis used by the courts to determine whether a government action violates equal protection of the law sufficient? Why or why not?
- When, if ever, is it permissible for the government to discriminate against persons or groups? Explain your position.

\* Justice Thurgood Marshall, quoted in “What You Need to Know About... The 14th Amendment’s Promise of Equality,” Legal Defense and Educational Fund, Thurgood Marshall Institute, accessed January 26, 2022, <https://tminstituteldf.org/tmi-explains/thurgood-marshall-institute-briefs/tmi-briefs-the-14th-amendment/14th-amendment-equal-protection/>.



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### Unit 4: How Have the Values and Principles Embodied in the Constitution Shaped American Institutions and Practices?

1. **“The power of the Congress to conduct investigations is inherent in the legislative process. That power is broad.”\*** Do you agree or disagree with this view of congressional investigative powers? Explain your position.

- What has been the historical significance of Congress’s investigatory power and, in your opinion, how well has it been used?
- To what extent, if any, should Congress be able to use its subpoena power to compel witness testimony?

\* Chief Justice Earl Warren, *Watkins v. United States*, 354 U.S. 178 (1957), <https://supreme.justia.com/cases/federal/us/354/178/#tab-opinion-1941547>.

2. **The president “ought to communicate such papers as the public good would permit, and ought to refuse those the disclosure of which would injure the public.”\*** Do you agree or disagree that the executive can withhold or disclose information at her or his discretion?

- To what extent, if any, has the claim of executive privilege expanded presidential power since its inception?
- Are the constitutional powers that enable the other two branches to counter executive privilege claims sufficient? Why or why not?

\* Thomas Jefferson, “Memoranda of Consultations with the President, [11 March–9 April 1792],” Founders Online, National Archives, <https://founders.archives.gov/documents/Jefferson/01-23-02-0219>.



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### Unit 5: What Rights Does the Bill of Rights Protect?

#### 1. To what extent, if any, has the U.S. intelligence community been effective in balancing national security and personal liberty?

- The National Security Agency, created under President Harry S. Truman’s administration, was so secret that it was referred to as “No Such Agency.”\* What restrictions, if any, does the Fourth Amendment place on the NSA?
- Under what circumstances, if any, should the NSA surveil American citizens?

\* James Bamford, *The Shadow Factory: The Ultra-Secret NSA from 9/11 to the Eavesdropping on America* (New York: Anchor Books, 2009), 13.

#### 2. “[9th Juror:] The facts are supposed to determine the case. ... [10th Juror:] Ah, don’t give me any of that. I’m sick and tired of facts. You can twist ’em any way you like. Know what I mean? [9th Juror:] That’s exactly the point this gentleman [He indicates the 8th Juror.] has been making.”\* Why are juries required to render a unanimous decision rather than a majority decision in most criminal cases?

- To what extent, if any, do jury trials ensure due process as stated in the Constitution and Bill of Rights?
- To what extent, if any, do jury trials reinforce founding principles?

\* Reginald Rose, *Twelve Angry Men*, originally published in 1955 (New York: Penguin Books, 2006), 51.



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### Unit 6: What Challenges Might Face American Constitutional Democracy in the Twenty-first Century?

1. **“Disband your deluded followers. ... Should you attempt to fire upon the troops of government, the consequences might be fatal to many of your men the least guilty.”\*** What useful purposes, if any, have rebellions served throughout American history?

- Do the events of January 6, 2021, at the U.S. Capitol constitute a rebellion? Why or why not?
- Are there rebellions in the world today that are justified? Why or why not?

\* Benjamin Lincoln to Daniel Shays, Hadley, Massachusetts, January 30, 1787,  
[https://csac.history.wisc.edu/wp-content/uploads/sites/281/2017/07/7.\\_Benjamin\\_Lincoln\\_to\\_Daniel\\_Shays\\_30\\_Jan.pdf](https://csac.history.wisc.edu/wp-content/uploads/sites/281/2017/07/7._Benjamin_Lincoln_to_Daniel_Shays_30_Jan.pdf).

2. **“It is a melancholy reflection that liberty should be equally exposed to danger whether the Government have too much or too little power, and that the line which divides these extremes should be so inaccurately defined by experience.”\*** Have governments exercised too much, too little, or just the right amount of power during the COVID-19 pandemic?

- What policies should the national, state, and local governments implement in public schools to respond to the pandemic?
- What, if any, are the responsibilities of people during a pandemic to balance individual liberty and the common good?

\* James Madison to Thomas Jefferson, October 17, 1788, in *The Founders' Constitution*, ed. Philip B. Kurland and Ralph Lerner, Chapter 14, Document 47, <https://press-pubs.uchicago.edu/founders/documents/v1ch14s47.html>.