



We the People

THE CITIZEN AND THE CONSTITUTION

Directed by the Center for Civic Education

MIDDLE SCHOOL NATIONAL HEARING QUESTIONS ACADEMIC YEAR 2016–2017

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

- 1. How did both classical republicans and natural rights philosophers influence the Founders' views about government?**
 - What are the essential differences between classical republicanism and natural rights philosophy?
 - Explain what John Locke meant by the social contract. Do social contracts exist today? Give examples.
 - Do you think government should have purposes that classical republicans and natural rights philosophers did not include in their writings? Explain your answer.
- 2. The Founders were concerned with how to preserve a republican form of government. According to the Framers, what was republican government?**
 - What led the Framers to establish a republican form of government?
 - What weaknesses did the Framers think would lead to the failure of republican government?
 - How did the Framers think these weaknesses could be prevented? Do you think the Framers' solutions were correct? Why or why not?
- 3. According to the Founders, what are major characteristics that a constitution or higher law should have, and why are these characteristics essential to the protection of our natural rights?**
 - How would you define a constitution? Under what conditions does a constitution serve as a higher law?
 - What is the difference between a government with a constitution and a constitutional government?
 - Is the fact that a constitution is written a sufficient protection of citizens' rights? Why or why not?



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

1. What basic constitutional principles were reflected in the governments of all of the colonies?

- Which of those constitutional principles were derived from the English experience in developing representative government?
- Why did the American colonists have the rights of Englishmen?
- Why did colonial governments become more representative than Britain's?

2. The Declaration of Independence has been described as “the most revolutionary political statement in American history.”* What new ideas about government and its purposes are set forth in the Declaration, and why might they be considered “revolutionary”?

- What principles expressed in the Declaration are traceable to John Locke and other natural rights philosophers?
- Using the Declaration as your source, in your own words describe the principles of good government contained within this document.
- Why do you think the Declaration is one of the most imitated or copied documents in the world today?

* Alan Dershowitz, *America Declares Independence* (New York: John Wiley and Sons, 2003), jacket copy.

3. “Despite its weaknesses, the Articles of Confederation made lasting contributions to American government.”* Do you agree with that assessment? Why or why not?

- What were some achievements of Congress under the Articles of Confederation?
- What shortcomings did many Founders see in the Articles?
- What arguments could you have made in support of the Articles?

* *The Concise Encyclopedia of Democracy* (New York: Routledge, 2000), 32.



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Unit 3: What Happened at the Philadelphia Convention?

1. At the Philadelphia Convention, the Framers advanced various plans to solve the problem of representation in Congress. What problems did the discussions on representation generate?

- What were the advantages and disadvantages of the Virginia Plan?
- What were the advantages and disadvantages of the New Jersey Plan?
- Do you think the Great Compromise was a good solution to the problem of representation? Why or why not?

2. In Federalist 70, Alexander Hamilton argued, “Energy in the Executive is a leading character in the definition of good government. It is essential to the protection of the community against foreign attacks; it is not less essential to the steady administration of the laws.”* Do you agree or disagree with Hamilton? Why?

- How does the Constitution both empower and limit the executive branch?
- What arguments were discussed in the Constitutional Convention and ratification debates about the power of the executive branch? Are they relevant today? Why or why not?
- Is the use of executive orders consistent with democratic principles and values? Why or why not?

* Alexander Hamilton, “The Executive Department Further Considered” (Federalist 70), *New York Packet*, March 18, 1788, The Avalon Project, Yale Law School, http://avalon.law.yale.edu/18th_century/fed70.asp.

3. The Anti-Federalists believed that the general welfare and necessary and proper clauses of the Constitution are so general and vague that, instead of a government of enumerated powers, the federal government can do practically anything it wants. Do you agree or disagree with the Anti-Federalists?

- What are the advantages and disadvantages of having enumerated powers, denied powers, and reserved powers?
- James Madison believed in “energy in government,”* but Thomas Jefferson thought that a “very energetic government” is “always oppressive.”** With whom do you agree and why?
- Do constitutional provisions that separate and share governmental powers reflect eighteenth-century ideas and concerns that are less important today? Explain.

* James Madison, “Concerning the Difficulties of the Convention in Devising a Proper Form of Government” (Federalist 37), *Daily Advertiser*, January 11, 1788, The Avalon Project, Yale Law School, http://avalon.law.yale.edu/18th_century/fed37.asp.

** Thomas Jefferson to James Madison, 20 December 1787, *The Founders’ Constitution*, The University of Chicago Press, <http://press-pubs.uchicago.edu/founders/documents/v1ch18s21.html>.



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

1. **British scholar James Bryce described the American system of federalism in this way: “The characteristic feature ... is that it shows us two governments covering the same ground, yet distinct and separate in their action. It is like a great factory wherein two sets of machinery are at work, their revolving wheels apparently intermixed, their bands crossing one another, yet each doing its own work without touching or hampering the other.”* Do you agree or disagree with Bryce? Why? How would you describe the federal system of government the Framers created?**

- In what ways is the description quoted above an accurate description of the relationship between the federal and state governments today? In what ways is it inaccurate? Explain and justify your answers.
- How do unitary and confederal systems of government differ from the federal system of the United States?
- If you were to recommend a system of government for United States as it exists today, what would you recommend and why?

* James Bryce, *The American Commonwealth*, abridged edition (New York: The Macmillan Company, 1906), 233.

2. **In his Farewell Address, George Washington cautioned his countrymen, “There is an opinion that parties in free countries are useful checks upon the administration of the government and serve to keep alive the spirit of liberty. This within certain limits is probably true; and in governments of a monarchical cast, patriotism may look with indulgence, if not with favor, upon the spirit of party. But in those of the popular character, in governments purely elective, it is a spirit not to be encouraged.”* Do you agree or disagree with Washington’s statement? Why?**

- How and why did political parties develop despite the objections of Washington and other Framers?
- On balance, do you think that political parties, during their more than two hundred years of existence, have been more helpful or hurtful to our country? What evidence can you offer in support of your position?
- Is the two-party system in U.S. politics the best system to represent citizens today? Why or why not?

* George Washington, Farewell Address (speech, September 19, 1796), The Avalon Project, Yale Law School, http://avalon.law.yale.edu/18th_century/washing.asp.

3. **In a letter written in 1820, Thomas Jefferson wrote, “A judiciary independent of a king or executive alone, is a good thing; but independence of the will of a nation is a solecism, at least in a republican government.”* Do you agree or disagree with Jefferson’s statement? Why?**

- How does the Constitution provide for the independence of the judiciary?
- What are the advantages and disadvantages of the Supreme Court practicing judicial review?
- How does the Constitution provide for the people to express their will?

* Thomas Jefferson to Thomas Ritchie, 25 December 1820, quoted in *The Quotable Founding Fathers*, ed. Buckner F. Melton Jr. (Washington, D.C.: Potomac Books, Inc., 2004), 150.



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

1. How does the right to due process of law protect an individual's right to life, liberty, and property?

- Why are due process rights protected under both the Fifth and Fourteenth Amendments?
- How would you distinguish between procedural and substantive due process?
- How is due process related to natural rights philosophy and the principle of limited government?

2. The First Amendment, with its protection of freedom of speech and press, has been described as being 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?
- Why is the right to freedom of the press important to society and republican government?
- Under what circumstances, if any, are limitations on freedom of speech and press consistent with the intent of the First Amendment? Why?

* Bruce W. Sanford and Jane E. Kirtley, “The First Amendment Tradition and Its Critics,” in *Institutions of American Democracy: The Press*, ed. Geneva Overholser and Kathleen Hall Jamieson (New York: Oxford University Press, 2005), 263.

3. President Lyndon B. Johnson signed the Voting Rights Act into law on August 6, 1965, saying, “Today is a triumph for freedom as huge as any victory that has ever been won on any battlefield. Yet to seize the meaning of this day, we must recall darker times.”* Why did Congress think it was necessary to pass the Voting Rights Act?

- The Constitution does not expressly provide a right to vote, but could such a right be implied by the Preamble and other provisions of the Constitution? Why or why not?
- How did the decision in *Shelby County v. Holder* in 2013 impact voting rights? How have recent court decisions impacted voting rights?
- How should the government deal with issues of voter fraud and disenfranchisement?

* Lyndon B. Johnson, “Remarks on the Signing of the Voting Rights Act” (speech, Capitol Rotunda, Washington D.C., August 6, 1965), The Miller Center, University of Virginia, <http://millercenter.org/president/speeches/speech-4034>.



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Unit 6: What Are the Responsibilities of Citizens?

1. One of the most recurrent arguments in the nation’s history has been over immigration and the criteria for naturalization and citizenship. What are the current arguments over these topics today, and which do you find most persuasive?

- Should the Fourteenth Amendment be changed to reflect additional or different criteria for national citizenship? Explain your position.
- Should children born in the United States automatically become citizens? Why or why not?
- Should all Americans be required to demonstrate their knowledge of American history and government, as naturalized citizens must do? Why or why not?

2. “Democracy is not the ‘default’ form of political organization; it requires a high degree of citizen understanding and participation to work well even under the best of conditions.”* Do you agree or disagree with Robert Maddex? Why?

- How would you explain “citizen understanding”? Why is it important?
- In what ways, if any, are citizen understanding and citizen participation related to classical republicanism and natural rights philosophy?
- How can social institutions like the family, education, and religion affect citizen understanding?

* Robert L. Maddex, *Constitutions of the World*, 3rd ed. (Washington, D.C.: CQ Press, 2008), viii.

3. The English historian of science D.S.L. Cardwell once said, “The powers of technology appear to be unlimited. If some of the dangers may be great, the potential rewards are greater still.”* Do you agree or disagree with Cardwell? Why or why not? Provide examples of how technology has had both positive and negative effects on our lives today.

- In what ways, if any, does modern technology affect the privacy rights of Americans?
- How might the Internet encourage or discourage the achievement of democratic principles and values?
- What actions, if any, do you think citizens, Congress, or your state legislature should take to limit the tools of modern technology, such as social media?

* D.S.L. Cardwell, *Dictionary of the History of Ideas*, vol. 4, *Technology* (New York: Charles Scribner’s Sons, 1973), 364, quoted in *Practically Speaking: A Dictionary of Quotations on Engineering, Technology and Architecture*, ed. Carl C. Gaither and Alma E. Cavados-Gaither (Bristol, UK: Institute of Physics Publishing, 1999), 364.