



We the People...
The Citizen and the Constitution

Directed by the Center for Civic Education
Funded by the U.S. Department of Education by act of Congress



National Hearing Questions

Academic Year 2001-02

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

- 1. At the time of their independence from Great Britain, the American people could call upon a century of experience in self-government, especially in the management of local affairs. Many historians believe that this colonial legacy was crucial to the success of the new nation after 1776. What were the most important principles, practices, and institutions of this legacy?**
 - Cite some examples of written guarantees of basic rights in colonial America. Why were these written guarantees important to the colonists? How did they influence the U.S. Constitution and Bill of Rights?
 - Many new democracies in the post-Cold War era have no experience in self-governance on which to draw. How might this affect their chances for success? What special burdens or needs does this lack of experience place upon them?
- 2. How did the Renaissance and Reformation change people's views about the relationship between the individual and society?**
 - Why did the study of the natural world and its laws inspired by the Renaissance lead to increased concern with the workings of government and of societal institutions?
 - It has been said that the Reformation was, at its core, a fight for freedom. Do you agree or disagree with that characterization? Why?
- 3. What are the political principles and values set forth in the Declaration of Independence?**
 - What were the sources of the political principles and values expressed in the Declaration of Independence?
 - Thomas Jefferson said that the ideas he included in the Declaration of Independence were not new or his alone. He said that the Declaration was "intended to be an expression of the American mind." What evidence is there that the ideas in the Declaration were widely held among Americans of his time?



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Unit Two: How Did the Framers Create the Constitution?

- 1. “A deliberative democracy, operating under a good constitution, responds to political disagreement not simply by majority rule, but also by attempting to create institutions that will ensure reflection and reason-giving.”* Do you agree or disagree that such institutions are essential components of a deliberative democracy and of a “good constitution”? Why or why not? Be prepared to defend your position.**
 - How does the U.S. Constitution try to ensure that there will be both deliberation and reflection in the legislative, executive, and judicial branches of our government? How effective have these constitutional provisions proven to be in practice?
 - Why should a deliberative democracy require reason-giving on the part of its institutions? What examples can you cite of how the legislative, executive, and judicial branches of our government explain or give reasons for their decisions or actions to the citizens of this country?
- 2. Should members of Congress consider themselves *delegates* obligated to vote the way the majority of the people in their districts want or should they consider themselves *trustees* who, while taking the views of their constituents into account, use their own best judgment or their conscience in deciding how to vote? Explain your position.**
 - What responsibilities, if any, does a member of Congress have to those who did *not* vote for him or her and to those who are *not* in the majority of his/her district or state?
 - What responsibilities, if any, do you and your fellow citizens have to make your views known to members of Congress and how can you fulfill those responsibilities?
- 3. In the ratification debates, the Federalists insisted that the Constitution had been carefully drafted to limit the powers of the national government. These limitations were sufficient, they contended, to allow for healthy, energetic government while at the same time preventing abuses of power. Evaluate those claims made by the Federalists.**
 - How effective has the Constitution proved to be in preventing abuses of power? What evidence can you offer to support your answer?
 - How would you define a “healthy and energetic” government? In what ways does the Constitution promote or inhibit healthy and energetic government?

* Cass R. Sunstein. *Designing Democracy: What Constitutions Do*. New York: Oxford University Press, 2001, p. 239.



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Unit Three: How Did the Values and Principles Embodied in the Constitution Shape American Institutions and Practices?

1. “The First Federal Congress was the most important Congress in American history,” according to two prominent historians. “Its awesome agenda breathed life into the Constitution, and established precedent and constitutional interpretation which still guides us 200 years later.”* What was on the agenda of the First Congress? Should those agenda items be considered “awesome”? Why or why not?

- How did the First Congress “breathe life into the Constitution”?
- What precedents were established by the First Congress? Why do you think Americans have continued to honor those precedents?

* Charlene Bangs Bickford and Kenneth R. Bowling. *Birth of the Nation: The First Federal Congress 1789-1791*. Madison: Madison House Publishers, 1989, p. 1.

2. Evaluate the major arguments advanced by the Federalists and the Anti-Federalists during the debate about the need to have a Bill of Rights added to the Constitution.

- What was James Madison’s original position about the need to add a Bill of Rights to the Constitution? Why did he change his mind and how did he champion a Bill of Rights in the First Federal Congress?
- If you had been a delegate to one of the state ratifying conventions, what would your position on adding a Bill of Rights to the Constitution have been? Why?

3. James Q. Wilson, a noted political scientist, claims, “Were the American Constitution the only guarantee of the independence of the American states, they would long since have become mere administrative subunits of government in Washington. Their independence results in large measure from the commitment of Americans to the idea of local self-government and from the fact that Congress consists of people who are selected by and responsive to local constituencies.”* Do you agree or disagree with Wilson? Why? What evidence can you offer in support of your position?

- What is sovereignty and where is it located in our political system? In what other places is sovereignty located in other political systems? What difference does it make where sovereignty is located?
- What special protections for subnational governments (state and local) are found in the Constitution?

* James Q. Wilson and John J. Dilulio, Jr. *American Government*. 6th edition. Lexington, Mass.: D.C. Heath 1995, p. 50.



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Unit Four: How Have the Protections of the Bill of Rights Been Developed and Expanded?

- 1. Chief Justice John Marshall called the Constitution a document “intended to endure for ages to come, and consequently to be adapted to various crises of human affairs.” One of the most daunting crises that our country has faced was brought on by different interpretations of the Constitution, particularly those that dealt with the issue of slavery. What were those constitutional issues and why did they lead to the Civil War?**
 - What were the major differences of opinion between the North and the South regarding the power of the national government and the relationship of the nation to the states?
 - Why did the southern states believe they had a constitutional right to secede from the Union?

- 2. Some scholars claim that the Fourteenth Amendment not only is the most important change in the Constitution since the Bill of Rights; they say it is a more important source of rights than the Bill of Rights. Do you agree or disagree? Why?**
 - What is the doctrine of incorporation and how has it expanded protection of the rights of individuals?
 - What is due process of law? How and why has the concept of due process been expanded to include substantive due process?

- 3. Justice Hugo Black claimed, “No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights, even the most basic, are illusory if the right to vote is undermined.”* Do you agree or disagree with Justice Black’s opinion? Why?**
 - The states still retain the right to set qualifications for voting, however they are subject to restrictions established by four amendments to the Constitution—the Fifteenth, Nineteenth, Twenty-fourth, and Twenty-sixth. What are those restrictions and why was it necessary to amend the Constitution to effect them?
 - Only about two-thirds of American adults are registered to vote, and only about half vote even in presidential elections. Is a right that many people fail to exercise a right that is endangered? Why or why not?

* *Wesberry v. Sanders*, 376 U.S. 1 (1964).



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

1. A chief justice of the United States Supreme Court once celebrated habeas corpus as the “Great Writ of Liberty.” He also called it “the most important human right in the Constitution” and “the best and only sufficient defense of personal freedom.”* Is such high praise deserved? What evidence can you offer in support of your position?

- How and when did the right of habeas corpus develop in England and why does that right strengthen the principle of constitutional government?
- Why do you think the Framers included habeas corpus as one of the few individual rights guaranteed in the original Constitution?

* Chief Justice Salmon Chase. *Ex Parte Yegerer*, 75 U.S. 85 (1869).

2. The Fifth Amendment states “No person... shall be compelled in any criminal case to be a witness against himself....” That right against self-incrimination, a former Justice of the Supreme Court says, “reflects many of our fundamental values and most noble aspirations... as well as our preference for an accusatorial rather than an inquisitorial system of criminal justice.”* What are those fundamental values reflected in that provision of the Fifth Amendment?

- What noble aspirations are implied by the constitutional right against self-incrimination?
- What are the major differences between an accusatorial or adversarial and an inquisitorial system of criminal justice? Why have Americans preferred the adversarial system rather than the inquisitorial system used by countries on the European continent?

* Arthur J. Goldberg, *Murphy v. Waterfront Commission*, 378 U.S. 52, 55 (1964).

3. In making the case for freedom of expression, philosopher John Stuart Mill claimed that a human being “is capable of rectifying his mistakes by discussion and experience. Not by experience alone. There must be discussion, to show how experience is to be interpreted. Wrong opinions and practices gradually yield to fact and argument: but facts and arguments... must be brought before it. Very few facts are able to tell their own story, without comments to bring out their meaning.”* Do you agree or disagree with Mill? Why? What evidence can you offer to support your position?

- What rights considered together make up “freedom of expression” and why are those rights important in a constitutional democracy?
- What limits on freedom of expression, if any, do you think are acceptable in a constitutional democracy? Be prepared to defend your position.

* John Stuart Mill. *On Liberty and Utilitarianism*. With an introduction by Alan M. Dershowitz. New York: Bantam Books, 1993, p. 24.



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Unit Six: What Are the Roles of the Citizen in American Democracy?

- 1. The rule of law, popular sovereignty, and freedom of expression are said to be three fundamental principles that enable a society to realize its civic values and that define its commitment to constitutional government and to democracy. Explain the essence or essential ideas embodied in the concepts of rule of law, popular sovereignty, and freedom of expression.**
 - Why and how do rule of law, popular sovereignty, and freedom of expression help a society like ours realize its civic values?
 - Why and how does fidelity to rule of law, popular sovereignty, and freedom of expression demonstrate our commitment to constitutional government and to democracy?
- 2. In his influential book *Democracy in America*, Alexis de Tocqueville credited the success of American democracy and the vitality of its society to the system of local government and to its voluntary associations. Why did Tocqueville believe local governments and voluntary associations were such critical elements in a democracy? Do you agree or disagree with Tocqueville's assessment? Why or why not?**
 - Are the traditions of local government and the spirit of association as strong in our society today as they were in Tocqueville's time? If so, what should be done to preserve and strengthen them? If not, what should be done to restore and revitalize them?
 - Why did Tocqueville believe that there did not have to be a contradiction between self-interest and civic-mindedness? Do you agree or disagree with his contention? Why?
- 3. In what ways can civic activity by young people serve to invigorate, enrich, and enhance American civic life today?**
 - In what areas of civic life can young people most readily and productively become involved?
 - Fewer than one out of every three 18- to 24-year-olds voted in the 2000 elections. Why do you believe that many young people fail to vote? How can their enthusiasm for civic participation be ignited?