



*We the People...*  
**The Citizen and the Constitution**

Directed by the Center for Civic Education  
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## **National Hearing Questions**

### **Academic Year 2000-01**

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

**1. “Rights and republicanism [republican self-government] may be said to be the twin pillars of the American political tradition. These pillars are planted in the soil of our history so firmly and seem to reinforce each other so strongly, that it is hard for us at first to credit any suggestion that there may be some tension or problem in their coexistence.”\* Should these two “Rs” be considered the twin pillars of our political tradition? Why or why not?**

- What might be the tensions between these two principles? How might they reinforce each other?
- How successful has the Constitution been in reconciling those tensions? What evidence supports your position?

\*Thomas L. Pangle, *The Ennobling of Democracy: The Challenge of the Postmodern Age* (Baltimore: The Johns Hopkins University Press, 1993), p. 93.

**2. In his classic study of the influence of the frontier on American history, Frederick Jackson Turner observed that “American democracy was born of no theorist’s dream; it was not carried in the *Sarah Constant* to Virginia, nor in the *Mayflower* to Plymouth ...free land and an abundance of natural resources open to a fit people, made the democratic type of society in America....”\*\* Do you agree or disagree with Turner’s statement? Explain your position.**

- What was the relative importance of such environmental influences during the colonial era in shaping the nation’s constitutional and political traditions?
- What was the relative importance of the legacy of ideas and institutions the colonists brought with them from the Old World?

\*\**The Frontier in American History* (Malabar, FL: Robert E. Krieger Publishing Company, Inc., 1985), p. 293



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- 3. The experience of the American Revolution influenced the constitution-making that followed independence. Which lessons learned from the colonists' break from Great Britain were positive? Which lessons turned out to have been wrong? Which lessons proved to be temporary? Which have survived to the present day?**
- The rebellious colonists believed the British had betrayed their own constitution. In what ways did the state and national constitutions of the new republic seek to restore the ideals of the British constitution?
  - In what ways did these new constitutions break away from the British constitutional tradition?



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**NATIONAL READING QUESTIONS**  
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**Unit Two: How Did the Framers Create the Constitution?**

**1. John Adams said, “The best republics will be virtuous, and have been so; but we may hazard a conjecture that the virtues have been the effect of the well ordered constitution rather than the cause. And, perhaps, it would be impossible to prove that a republic cannot exist even among highwaymen [muggers] by setting one rogue to watch another; and the knaves themselves may in time be made honest men by the struggle.”\* Do you agree that virtue is more likely to be the consequence rather than the prerequisite of good government? Why or why not?**

- How does the Constitution promote virtue? How might it discourage virtue?
- What does Adams’ statement suggest about the nature of citizenship and civic participation?

\*“A Defence of the Constitutions of the Government of the United States of America,” *Works of John Adams* (10 vols.; Boston: Little, Brown, 1850-1856), vi, 219.

**2. The Framers considered several alternatives for choosing a president before settling on the electoral college system. What were the various options they considered? What might have been the strengths and weaknesses of each of those options? Why did the Framers decide in favor of the electoral college?**

- Why did the Framers believe that the electoral college system was consistent with principles of republican government?
- Would you favor replacing the electoral college with the direct election of presidents by overall popular vote? Why or why not? What reforms might you suggest?



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**3. James Madison has been described as a “philosopher statesman,” combining “the intellectual knowledge and creativity of the scholar with the practical savvy of the politician.” Which of these two qualities do you think was the more important in determining this Founder’s impact on American history: Madison the “scholar” or Madison the “politician”? Explain your position.**

- Madison denied that he was the “Father of the Constitution.” What evidence supports his denial? What evidence suggests he may have been too modest?
- Madison tried to learn the lessons of both past and present experience. What might be the most important lessons he would learn from American politics today?\*

\*A special prize will be awarded by James Madison’s Montpelier to the school whose unit team demonstrates the best performance in response to this hearing question.



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

**1. Among the most controversial and talked about provisions of the Bill of Rights, the Second Amendment has received relatively little attention in the nation's courts. Its constitutional meaning and reach have rarely been tested. In your opinion, to what extent does the Second Amendment allow the federal government to control civilian ownership and use of firearms? What restrictions, if any, does that Amendment impose on state or local governments?**

- Is the right of self-defense part of that "liberty" protected by the due process clause of the Fourteenth Amendment? Why or why not?
- Why might the Founders have believed that the civilian bearing of arms helped to promote civic virtue?

**2. In *Federalist 84*, Alexander Hamilton argued that the original Constitution is its own bill of rights, providing important protections of individual liberties. Recent scholars have argued, conversely, that the Bill of Rights is its own constitution, supporting many of the structural principles of the original Constitution and securing those freedoms that are necessary to self-government. How does the original Constitution protect individual rights? How does the Bill of Rights help to provide the framework and the tools of self-government?**

- Anti-Federalists opposed to the Constitution feared that it would create a centralized, "aristocratic" government. How does the Bill of Rights address such concerns?
- How does the Bill of Rights protect the interests of the majority as well as those of minorities?



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3. In its recent decision in *Bush v. Gore*, the U.S. Supreme Court said, “None are more conscious of the vital limits on judicial authority than are the members of this Court, and none stand more in admiration of the Constitution’s design to leave the selection of the President to the people, through their legislatures, and to the political sphere. When contending parties invoke the process of the courts, however, it becomes our unsought responsibility to resolve the federal and constitutional issues the judicial system has been forced to confront.”\* What are the “vital limits” on judicial authority? What are the potential benefits and drawbacks of the judiciary becoming involved in the “political sphere”?
- In *Marbury v. Madison* Chief Justice John Marshall said that “questions, in their nature political...can never be made in this court.” What did Marshall mean by that statement? What is a “political question”? How does it differ from a “judicial question”?
  - How do the constitutional principles of federalism and separation of powers figure in determining whether or not the judiciary should become involved in political matters?

\**George W. Bush, et al., Petitioners v. Albert Gore, Jr., et al.* (2000).



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**NATIONAL READING QUESTIONS**  
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**Unit Four: How Have the Protections of the Bill of Rights Been Developed and Expanded?**

**1. *Dred Scott v. Sandford* (1857) is probably the most famous example of the U.S. Supreme Court attempting to peacefully resolve a national crisis through a court decision. Why did that effort fail? How important was that decision in causing the Civil War?**

- *Dred Scott* has been described as the “most overturned judicial decision in history.” What overturned it? How and why?
- What does the *Dred Scott* decision suggest about the strengths and limitations of an independent judiciary in a constitutional democracy?

**2. Justice Oliver Wendell Holmes said, “I do not think the United States would come to an end if we lost our power to declare an Act of Congress void. I do think the Union would be imperiled if we could not make that declaration as to the laws of the states.”\* Why do you think Justice Holmes believed that judicial review of the actions of state governments was more important than judicial review of the actions of Congress? Do you agree or disagree? Explain your position.**

- What evidence in the Constitution supports or refutes his statement?
- How has the Fourteenth Amendment affected the validity of that statement? Could the Union have survived without the equal protection and due processes clauses of that Amendment? Why or why not?

Oliver Wendell Holmes, Jr., *Collected Legal Papers* (New York: Harcourt Brace, 1920), p. 295.



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3. **The recent elections illustrated the difficulties sometimes involved in determining the “will of the people” in a modern democracy. In view of the closeness of those elections, their irregularities, and the fact that scarcely half of eligible voters chose to exercise their franchise, is the “will of the people” a realistic standard of legitimacy in our democracy? Why or why not? How would you define “will of the people”?**
- Should the “intent of the voter” be the criterion for determining a legal vote or should each voter be accountable for making sure his or her vote has been executed properly? Explain your position.
  - Should voting be made a legal requirement of all citizens, as is the practice in many democracies? Why or why not?





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**NATIONAL READING QUESTIONS**  
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**Unit Five: What Rights Does the Bill of Rights Protect?**

**1. Different interpretations of the establishment clause of the First Amendment have resulted over time in inconsistencies in how religion is treated in our public life. Public high school classes may not include prayers in commencement ceremonies but the nation's chief executive is asked to invoke the help of a Supreme Being in his oath of office. Can a case be made for inconsistency, that is, for allowing the various interpretations to apply in different circumstances? Why or why not?**

- What other provisions of the Constitution might help to explain a blurring of the line between church and state?
- What arguments can you make for and against the constitutionality of faith-based charitable institutions receiving support from the federal government?

**2. Freedom of assembly has sometimes been described as a “derivative” right, that is, a right whose primary justification derives from the support it gives to other rights. What other rights does this right support? How? Does freedom of assembly have a value of its own? Why or why not?**

- What restrictions, if any, do the rights of freedom of expression and freedom of assembly impose on each other?
- The First Amendment says that Congress may make “no law” abridging the right to peaceably assemble and yet courts have allowed government to impose time, place, and manner restrictions on this right. How do you account for this apparent discrepancy?



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- 3. With the dramatic growth in electronic data storage and sharing, the privacy of personal information may become one of the most important and the most precarious freedoms of Americans in the Information Age. What explicit and implied protections does the Constitution give to the right of privacy? What other rights help support it? What other rights undermine it?**
- Why is privacy a right worth protecting? Is privacy of personal information different from other aspects of privacy? Why or why not?
  - Should citizens be allowed to encrypt their private electronic communications free from government access? Why or why not?



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**NATIONAL READING QUESTIONS**  
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**Unit Six: What Are the Roles of the Citizen in American Democracy?**

**1. In recent decades the United States has taken punitive action against countries it believes have violated human rights. During this same period the United States has refused to sign several international agreements that would commit our government to honoring certain human rights at home. How would you explain our nation's policy in the court of world opinion? Are we guilty of hypocrisy? Why or why not?**

- What are the similarities between human rights and the natural rights on which this country was founded? What are the differences?
- Do you believe the traditions of American constitutionalism help or hinder the advancement of human rights in this country? Explain your position.

**2. The size of the U.S. House of Representatives has not changed in almost a century. The 435 members of Congress now represent districts averaging over 600,000 people each. The Second Congress (1791-93) had 105 congressmen, whose districts averaged about 35,000 people.\* What might be the advantages of increasing the number of representatives with a consequent reduction in the size of congressional districts? What might be the disadvantages? Would you support such a reform? Why or why not?**

- Advocates of this change say it honors the principles of republican government established by the Framers. Do you agree? Why or why not?
- What considerations should determine whether a representative assembly is too small or too large?

\*Before 1870, official apportionment data were based on counting the total free population and three-fifths of the number of slaves, as well as excluding American Indians not taxed.



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3. **George Mason said, “No free government, or the blessings of liberty, can be preserved to any people, but by frequent recurrence to fundamental principles.” In your opinion, what are the “fundamental principles” of the American republic? Why? Are some more important than others? Why or why not?**
- Have those fundamental principles changed over the course of two centuries? Why or why not?
  - How should the American people “frequently recur” to them?