



State Hearing Questions 2025–2026

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

1. Montesquieu said, “If a republic be small, it is destroyed by a foreign force; if it be large, it is ruined by an internal imperfection.”* Do you agree with his assessments regarding the dilemmas facing large and small republics?

- How did the presence of foreign powers, such as France, Spain, or neighboring Indigenous nations, shape the colonists’ arguments or proposals for governmental structure?
- In your opinion, has the American constitutional system struck a balance between the strength of a large republic and the internal harmony of a small one?

* Montesquieu, *Spirit of the Laws*, book 9, chapter 1, in Philip B. Kurland and Ralph Lerner, eds., *The Founders’ Constitution* (University of Chicago Press, 1987), <https://press-pubs.uchicago.edu/founders/documents/v1ch8s1.html>.

2. The Albany Plan of 1754 was the first attempt to create a national union among the American colonies. What concerns or limitations led American colonists to reject the Albany Plan?

- How, if at all, did the outcome of the French and Indian War affect colonial efforts to unify?
- In what ways did the American Revolution succeed or fail in fostering a shared national identity among the colonies?

3. To what extent was it natural for the early colonial experiments to adopt classical republican ideas of how a society should function?

- What are the assumptions about human nature in classical republicanism?
- In your opinion, are the ideas of the natural rights philosophy compatible with the social principles of classical republicanism? Why or why not?



Unit 2: How Did the Framers Create the Constitution?

1. Historian Gordon Wood wrote that in “destroying monarchy and establishing republics, they [the Founders] were changing their society as well as their governments.”* In your opinion, was the American Revolution both a political and a social revolution?

- What evidence is there that the American Revolution led to lasting changes in social structures, values, or institutions?
- In your view, how have later generations carried forward, or struggled with, the ideal of forming “a more perfect union”?

* Gordon S. Wood, *The Radicalism of the American Revolution* (Vintage Books, 1993), 5.

2. James Madison proposed in the Philadelphia Convention that the national legislature have the authority “to negative all laws passed by the several states” and “to call forth the force of the Union against any member ... failing to fulfill its duty.”* To what extent was it a reasonable idea to place such power in the national legislature?

- In your opinion, has the supremacy clause functioned the way Madison’s national negative might have functioned? Why or why not?
- To what extent has Congress historically maintained its strength within the separation of powers framework?

* *The Virginia Plan*, May 29, 1787, Center for the Study of the American Constitution, University of Wisconsin–Madison, https://csac.history.wisc.edu/wp-content/uploads/sites/281/2024/04/DC2-02-01-01_Virginia-Plan_29May87.pdf.

3. One critic of the Constitution noted that, like the “wooden horse filled with soldiers ... in ancient times,”* the Constitution would be destructive to the liberties Americans enjoyed. What features of the Constitution might this author have had in mind that would threaten Americans’ liberties?

- In your opinion, would a second convention have reduced the Anti-Federalists’ concerns over the Constitution? Why or why not?
- When examining American history, to what extent were the Anti-Federalists’ criticisms legitimate?

* “Centinel IV,” *Philadelphia Independent Gazetteer*, November 30, 1787, Center for the Study of the American Constitution, University of Wisconsin–Madison, https://csac.history.wisc.edu/wp-content/uploads/sites/281/2024/04/DC3-01-01-01_Centinel-IV_30Nov87.pdf.



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

1. In *Youngstown Sheet & Tube Co. v. Sawyer* (1952), the Supreme Court declared the following test for when the president can issue an executive order: “The President’s power, if any, to issue the order must stem either from an act of Congress or from the Constitution itself.”* Do you agree or disagree with this test? Explain.

- How do executive orders fit into our constitutional system of checks and balances?
- Should the president be allowed to withhold funds that Congress has appropriated? Why or why not?

* *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579 (1952), <https://supreme.justia.com/cases/federal/us/343/579/>.

2. Thomas Jefferson opposed frequent constitutional “changes,” but wrote that “laws and institutions must go hand in hand with the progress of the human mind.”* How has the Constitution been reinterpreted or amended to go “hand in hand with the progress of the human mind”?

- Looking back on the nation’s 250-year history, has the Constitution’s amendment process described in Article V suffice to allow for the “changes” Jefferson referenced? Explain.
- Should the Constitution be interpreted as a “living document” or interpreted based on its original understanding?

* Thomas Jefferson, letter to “Henry Tompkinson” (Samuel Kercheval), July 12, 1816, Founders Online, National Archives and Records Administration, <https://founders.archives.gov/documents/Jefferson/03-10-02-0128-0002>.

3. In the *Civil Rights Cases* (1883), the Supreme Court concluded that Section 2 of the 13th Amendment empowers Congress to enact laws abolishing “all badges and incidents of slavery.” What did the Court mean by this phrase, and why was it significant?

- What are some examples of “badges and incidents of slavery” that remained after the 13th Amendment was ratified? How has Congress responded over time to address these issues?
- Should Congress pass additional legislation today to address the ongoing effects of slavery or systemic discrimination? Why or why not?

* *Civil Rights Cases*, 109 U.S. 3 (1883), <https://supreme.justia.com/cases/federal/us/109/3/>.



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

1. In 2016, a group of congressional scholars advocated for increased funding to hire more staff and to increase staff compensation for Congress, writing that “Congress has been doing government on the cheap for decades. And we get what we pay for.”* In your opinion, should Congress invest more resources in itself? Why or why not?

- Are these scholars correct that Congress needs to devote greater attention and resources to its own work? Provide examples from recent decades that support your reasoning.
- What factors might explain why Congress has not invested in its own professional staff and other helpful resources over the last several decades?

* Kevin Kosar, “Congress Must Invest in Its Own Capacity Again,” *R Street*, March 9, 2016, <https://www.rstreet.org/commentary/congress-must-invest-in-its-own-capacity-again/>.

2. “‘Our Federalism’ ... is a system in which there is sensitivity to the legitimate interests of both State and National Governments, and in which the National Government, anxious though it may be to vindicate and protect federal rights and federal interests, always endeavors to do so in ways that will not unduly interfere with the legitimate activities of the States.”* What are the advantages and disadvantages of this kind of tension between state and national authority in a constitutional democracy?

- What are some significant historical or contemporary examples of federalism-related conflict? How were they resolved, and do you think those resolutions strengthened or weakened the constitutional system?
- Do you agree with Justice Black’s claim that the national government is sensitive to the interests of the states, even when federal interests are at stake?

* Justice Hugo Black, *Younger v. Harris*, 401 U.S. 37, 44 (1971), <https://supreme.justia.com/cases/federal/us/401/37/>.

3. “It is emphatically the province and duty of the Judicial Department to say what the law is.”* Do you agree or disagree? Who decides what the Constitution means?

- When, if ever, should different branches or levels of government be allowed to interpret the Constitution differently? How should such conflicts be resolved?
- Has judicial review been good or bad for the American republic? Explain your position.

* John Marshall, *Marbury v. Madison*, 5 U.S. 137 (1803), <https://supreme.justia.com/cases/federal/us/5/137/>.



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

1. The United States Supreme Court has recognized “streets, sidewalks, and parks” as locations where “the government’s ability to permissibly restrict expressive conduct is very limited.”* **How should the government be able to limit expressive conduct in these locations, if at all?**

- In what ways have social movements historically relied on public spaces to express their views or demand change?
- What kinds of public spaces has the Supreme Court treated differently, and why might those distinctions matter for free expression today?

* *United States v. Grace*, 461 U.S. 171 (1983), <https://supreme.justia.com/cases/federal/us/461/171/>.

2. “Discovery and invention have made it possible for the Government ... to obtain disclosure in court of what is whispered in the closet.”* **Justice Brandeis believed Fourth Amendment protections must adapt to technological change to safeguard liberty and privacy. Do you agree? Why or why not?**

- To what extent have technological advancements throughout America’s 250-year history changed how the Supreme Court interprets the Fourth Amendment?
- How might artificial intelligence challenge or reshape current interpretations of Fourth Amendment protections? Should courts and lawmakers adjust legal standards in response?

* Justice Louis D. Brandeis, dissenting, *Olmstead v. United States*, 277 U.S. 438 (1928), <https://supreme.justia.com/cases/federal/us/277/438/>.

3. In proposing the Bill of Rights to Congress, James Madison warned that the “greatest danger” to liberty is not found in the legislative or executive departments of government but “in the body of the people, operating by the majority against the minority.”* **How does the Bill of Rights heed Madison’s concern and protect minorities against the danger of majorities?**

- To what extent, if any, should individual rights set forth in the Bill of Rights be limited by the will of the majority?
- Which rights do you think need the most protection today, and why?

* James Madison, *Amendments to the Constitution*, June 8, 1789, Founders Online, National Archives and Records Administration, <https://founders.archives.gov/documents/Madison/01-12-02-0126>.



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

1. In the Gettysburg Address, Abraham Lincoln declared that “Four score and seven years ago our fathers brought forth on this continent, a new nation, conceived in Liberty, and dedicated to the proposition that all men are created equal.” Why do you think Lincoln believes 1776 to be the start of a new nation instead of 1788? When do you believe the nation officially began?

- What qualifies a separate region or group as a distinct, sovereign nation?
- Are the ideals set forth in the Declaration of Independence still shaping American law and policy today? Should they be legally enforceable?

* Abraham Lincoln, *The Gettysburg Address*, November 19, 1863, National Constitution Center, <https://constitutioncenter.org/the-constitution/historic-document-library/detail/abraham-lincoln-the-gettysburg-address-1863>.

2. Since the colonial era, people have expressed their dissatisfaction with government through acts of political protest. However, some protesters are celebrated while others are vilified. What factors determine whether participants in public demonstrations are viewed as patriots or traitors?

- What, if any, common factors exist in both historical and contemporary demonstrations that are viewed as valid and patriotic?
- Under what circumstances, if any, should the government intervene to curtail political protests?

3. How do modern elections in America differ from those envisioned by the Framers of the Constitution?

- What has been the impact of political parties on our electoral structures and governmental systems?
- How have the roles and responsibilities of voters changed over time? What suggestions would you make to increase voter participation?