



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>.

Suggested Follow-Up Questions:

- What writings or debates from the founding era show concern about the size of the republic? [Evidence]
- How does Montesquieu’s warning connect to debates between the Federalists and Anti-Federalists? [Analysis/Understanding]
- Does Madison’s argument in Federalist 10 successfully refute Montesquieu’s claim about large republics? Why or why not? [Analysis/Understanding]
- What steps can a large republic take to maintain domestic tranquility and prevent internal divisions? [Application]
- Looking at current political and social divisions, what might Montesquieu say about the strengths and weaknesses of the modern American republic? [Application]



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?

Suggested Follow-Up Questions:

- What other early efforts, besides the Albany Plan, reveal colonial attitudes toward unity? [Evidence]
- Do you think the colonies' rejection of the Albany Plan reflected pragmatism or short-sightedness? Why? [Analysis/Understanding]
- In what ways did debates over the Albany Plan foreshadow later arguments at the Philadelphia Convention? [Analysis/Understanding]
- What does the colonies' rejection of the Albany Plan teach us about the difficulties of balancing local interests with national needs both then and now? [Application]
- If the Albany Plan had been adopted, how might it have changed the path toward American independence? [Application]



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?

Suggested Follow-Up Questions:

- What evidence from the writings of early leaders shows tension between natural rights and republican ideals? [Evidence]
- What examples from European history influenced how colonists thought about republican government? [Evidence]
- How did differing views of human nature shape colonial approaches to government and society? [Analysis/Understanding]
- Do you think the Founders overestimated or underestimated the capacity of citizens to practice civic virtue? Why? [Application]
- To what extent does the survival of the American system depend today on classical republican ideals of virtue and participation? [Application]



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.

Suggested Follow-Up Questions:

- Beyond the American Revolution, what historical events have demonstrated significant shifts in American social structures? [Evidence]
- Are there examples of groups that saw little to no social benefit from the revolution, despite political change? Explain. [Evidence]
- How do historians disagree on whether the revolution was radical or conservative in its social impact? [Analysis/Understanding]
- In what ways do modern movements for equality and justice trace their arguments to revolutionary ideals? [Application]
- Could another social revolution be necessary today to fulfill the promise of a more perfect union? Why or why not? [Application]



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.

Suggested Follow-Up Questions:

- What Supreme Court cases best illustrate conflicts over state and federal power? [Evidence]
- Which historical events have demonstrated the national and state tensions Madison anticipated? [Evidence]
- How might giving Congress that power have changed the role of the Supreme Court in U.S. history? [Analysis/Understanding]
- Could granting Congress stronger authority over states improve today’s governance, or could it be destabilizing? Why? [Application]
- If Congress had the power to veto state laws today, what kinds of state laws might it review most often? [Application]



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.

Suggested Follow-Up Questions:

- What examples from state ratifying conventions reveal strong opposition to the Constitution? [Evidence]
- Could stronger provisions for state sovereignty in the Constitution have alleviated the concerns of the Anti-Federalists? Why or why not? [Analysis/Understanding]
- How might enslaved people, women, or Indigenous groups have viewed Anti-Federalist arguments about liberty? [Analysis/Understanding]
- If the Anti-Federalists could examine the U.S. government today, which features would most confirm their fears about centralized power? Why? [Application]
- Could contemporary critics use the Trojan horse metaphor to describe features of American government today? How? [Application]



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/>.

Suggested Follow-Up Questions:

- What other historical examples illustrate presidents expanding or testing the limits of executive power? [Evidence]
- Which constitutional provisions are most often cited to justify or limit executive orders? [Evidence]
- Why do tensions over executive authority persist despite judicial precedent? [Analysis/Understanding]
- What lessons could today’s leaders learn from the *Youngstown* case about balancing leadership and limits? [Application]
- Some argue that executive orders are essential for effective governance; others see them as bypassing democracy. How would you weigh these views? [Application]



- 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 sufficed 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>.

Suggested Follow-Up Questions:

- What Supreme Court cases illustrate reinterpretations of the Constitution in response to new social or cultural values? [Evidence]
- Which historical movements most clearly pushed constitutional change to keep pace with evolving ideas? [Evidence]
- What are the implications of relying on judicial reinterpretation versus formal amendment for constitutional change? [Analysis/Understanding]
- What might happen if the Constitution does not evolve in line with “the progress of the human mind”? [Application]
- What issues in modern society might require new constitutional interpretations or amendments? [Application]



- 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/>.

Suggested Follow-Up Questions:

- Which pieces of federal legislation passed before 1883 were attempts to address “badges and incidents of slavery”? [Evidence]
- Are there Supreme Court cases beyond the *Civil Rights Cases* that further defined the meaning of “badges and incidents of slavery”? [Evidence]
- How does the Court’s interpretation in 1883 reflect the political and social climate of the post-Reconstruction era? [Analysis/Understanding]
- How might the idea of “badges and incidents of slavery” apply to issues today, such as housing inequality, policing, or voting rights? [Application]
- How do debates over reparations connect to the concept? [Application]

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/>.

Suggested Follow-Up Questions:

- When has Congress been most effective in U.S. history, and what role did staffing levels, expertise, or institutional resources play in that effectiveness? [Evidence]
- How do congressional hearings help Congress build expertise, and what limits does Congress still face in understanding complex issues? [Analysis/Understanding]
- What might be the consequences, both positive and negative, of significantly increasing congressional staff and funding? [Analysis/Understanding]
- What reforms beyond funding, such as training or nonpartisan staffing, might strengthen the work of Congress? [Application]
- Within your group, where do you agree and disagree about whether Congress’s main problem is resources or something else, like partisanship? [Application]



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/>.

Suggested Follow-Up Questions:

- What amendments to the Constitution reflect debates over federal versus state authority? [Evidence]
- Why did the Framers design a system where tension between national and state governments was inevitable? [Analysis/Understanding]
- What are the risks when federal authority dominates too much? What are the risks when state authority dominates? [Analysis/Understanding]
- Some argue that tension between federal and state governments is a strength, not a flaw. How do you respond? [Application]
- Should the balance of federal and state authority be reconsidered in light of current challenges? [Application]



**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/>.

Suggested Follow-Up Questions:

- What Supreme Court cases illustrate the Court using judicial review to check the other branches? [Evidence]
- How did early Congresses or presidents react to the Court’s assertion of judicial review in *Marbury*? [Evidence]
- What are the consequences of having the Supreme Court act as the final authority on constitutional meaning?[Analysis/Understanding]
- How does judicial review affect public trust in the Court and the broader system of government? [Analysis/Understanding]
- Should reforms like term limits or court expansion be considered to adjust the power of judicial review? Why or why not? [Application]



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/>.

Suggested Follow-Up Questions:

- What constitutional principles or past Court rulings most directly support the right to expressive conduct in public spaces? [Evidence]
- What underlying principles of democracy are advanced by protecting public protest in open spaces? [Analysis/Understanding]
- What risks exist if government gives too much freedom for protest in public spaces? What risks exist if it restricts too much? [Analysis/Understanding]
- In your opinion, how should local governments handle encampments or long-term protests in public parks? [Application]
- Should online spaces, like social media platforms, be treated as “modern public forums”? Why or why not? [Application]



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/>.

Suggested Follow-Up Questions:

- What examples from U.S. history illustrate how new inventions reshaped privacy debates? [Evidence]
- How do different justices explain the idea of a “reasonable expectation of privacy”? [Analysis/Understanding]
- How do generational perspectives shape debates about privacy in the digital age? [Analysis/Understanding]
- In your opinion, what new technologies today raise the most serious Fourth Amendment questions, and why? [Application]
- How might advances in surveillance using artificial intelligence affect the balance between security and individual liberty in the future? [Application]



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>.

Suggested Follow-Up Questions:

- Which specific amendments were most clearly designed to protect unpopular or minority views? [Evidence]
- Why did Madison fear majority tyranny more than abuse of power by government officials? [Analysis/Understanding]
- How might different groups in society define which rights need the strongest protection? [Analysis/Understanding]
- What rights today seem most at risk from majority rule, and how might they be defended? [Application]
- Some argue that protecting minority rights strengthens democracy, while others think it weakens majority rule. How would you respond? [Application]



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>.

Suggested Follow-Up Questions:

- What historical events between 1776 and 1788 illustrate the tensions between independence and constitutional government? [Evidence]
- What are the risks of elevating ideals (1776) over institutions (1788), or vice versa? [Analysis/Understanding]
- If Lincoln had grounded the nation’s birth in 1788, how might that have changed the Civil War’s moral framing? [Analysis/Understanding]
- How did movements, such as abolition, women’s suffrage, or civil rights, reinterpret 1776’s ideals in their own struggles? [Application]
- How might this debate over national beginnings shape our understanding of democracy’s future? [Application]



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?

Suggested Follow-Up Questions:

- Can you cite historical examples of protests that were first vilified but later celebrated? [Evidence]
- How does protest function as both a right and a potential threat to stability? [Analysis/Understanding]
- How might government officials, protesters, and ordinary citizens perceive the same event differently? [Analysis/Understanding]
- How do doctrines like time, place, and manner restrictions balance free expression with order? [Application]
- If the Boston Tea Party occurred today, would it be praised as patriotism or prosecuted as vandalism or terrorism? Why? [Application]



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?

Suggested Follow-Up Questions:

- Which constitutional amendments most significantly expanded the electorate? [Evidence]
- Why were the Framers cautious about direct democracy in elections? [Analysis/Understanding]
- What are the consequences of declining voter turnout for democratic legitimacy? [Analysis/Understanding]
- How does judicial interpretation of voting rights shape modern elections? [Application]
- What role, if any, should Congress play in setting nationwide election standards versus leaving it to the states? [Application]