



Unit 1 Tutorials: Foundations of U.S. Democracy

INSIDE UNIT 1

Introduction to Government

- Types of Government
- Types of Democracy
- Ideals of Democracy

The U.S. Constitution

- The Causes of the American Revolution
- The Articles of Confederation
- Compromises at the Constitutional Convention
- Principles of U.S. Government
- Debates over the Ratification of the U.S. Constitution
- Amending the U.S. Constitution

Federalism

- The Federal System
- Early Interpretations of Federalism
- Evolution of U.S. Federalism
- Federalism in Action
- State and Local Governments

Types of Government

by Sophia



WHAT'S COVERED

In this lesson, you will learn about the nature and function of government. What do governments do, and how much control do they have over our decisions—like whether we can remodel our home or run a business? The answer depends on what type of government we have. We will investigate what a government is and how its organization impacts its power. Finally, we will consider how governments

influence how we do our jobs, what we have to pay for, and other economic choices. Specifically, this lesson covers:

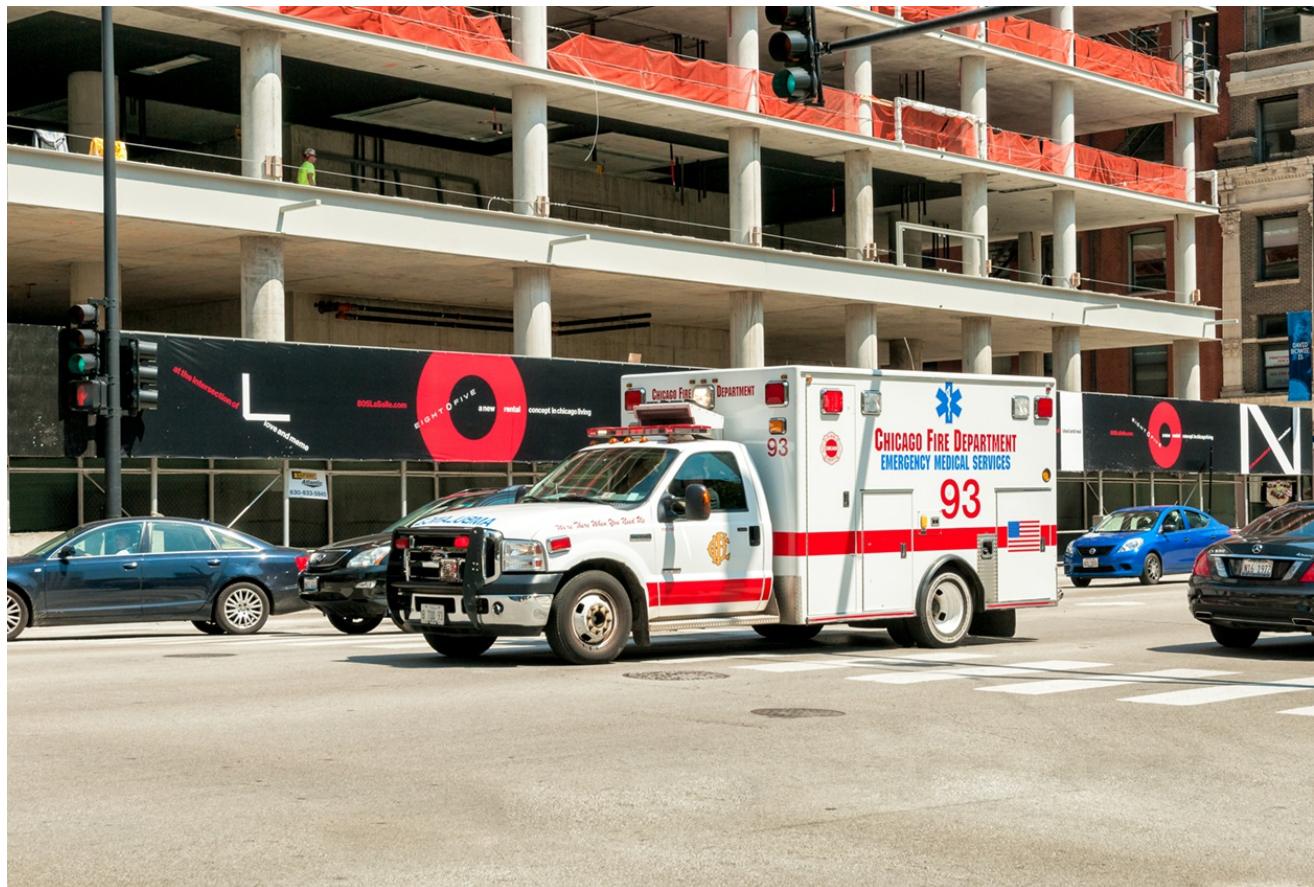
1. Function of Government

Government affects all aspects of people's lives. What we eat, where we go to school, what kind of education we receive, and how our tax money is spent are all affected by government.

The term **government** describes the means by which a society organizes itself, and how it allocates that authority in order to accomplish collective goals and provide societal benefits. Among the many goals that governments around the world seek to accomplish are: economic prosperity, secure national borders, and the safety and well-being of citizens. For example, governments establish local fire departments to keep people safe from fires and other natural disasters (Figure 1).

Governments also provide benefits for their citizens. These benefits vary, but governments commonly provide such things as education, health care, and infrastructure for transportation.

Over time, the functions of government can change. For example, some governments have begun to promote equality to provide their citizens equal access to resources and ensure equal treatment under the law.



(Figure 1) A fire department ambulance rushes to the rescue in Chicago. Emergency medical services, fire departments, and police departments are all paid for by the government through the tax base, and they provide their services without an additional charge.

In this course, we will study government and the political system. But, what is a political system, and what do we mean by **politics**? Put simply, politics is the process of negotiating who gets what and how. These decisions are made not only by governments, but within businesses, universities, and even in families. Within governments, politics is the process by which choices are made regarding how resources will be allocated, and which economic and social policies governments will pursue.

In the United States, many different elected bodies are in charge of who gets which goods and services. People elect representatives to city councils, state legislatures, and Congress. These bodies make and implement laws. Government offices collect taxes and provide services.



TERMS TO KNOW

Government

The means by which a society organizes itself and allocates authority to accomplish collective goals.

Politics

The process of gaining and exercising control within a government for the purpose of setting and achieving particular goals.

2. Systems of Government

Political scientists tend to classify governments according to who rules and how much power they exert over the people.

2a. Who Rules

In a monarchy, one ruler—usually a hereditary ruler—holds political power. A monarch's power can be absolute or limited by law. Absolute monarchs have unrestricted power. This form of government was more common in the past. Today, kings and queens often rule along with an elected legislature that makes laws for the country. In England, the monarch has very little power and mostly serves as a diplomat, representing the country. In Jordan, the monarch has more power. For example, the king can appoint the members of the Senate and the head of the top court.

In an **oligarchy**, a handful of elite members of society—often those who belong to a particular political party—hold all political power. For example, in Cuba and China only members of the Communist Party are allowed to vote or hold public office, and the party's most important members make all government decisions.

A **democracy** is a government in which **political power**—influence over institutions, leaders, and policies—rests in the hands of the people. The United States is a **republic**, or **representative democracy**. In a representative democracy, the citizens do not govern directly. Instead, they elect representatives to make decisions and pass laws on behalf of all the people.

For example, in the United States citizens vote for members of Congress, the president and vice president, members of state legislatures, governors, mayors, and members of town councils and school boards to act on their behalf.

Most representative governments favor **majority rule**, in which the opinions of the majority of the people have more influence on government than those of the minority. If the number of elected representatives who favor a proposed law is greater than those who oppose it, the law will be enacted. However, representative

governments like the United States also protect **minority rights**, or the rights of individuals who have views or identities not shared by the majority.



TERMS TO KNOW

Oligarchy

A handful of elite members of society who hold all political power.

Democracy

A government in which political power—fluence over institutions, leaders, and policies—rests in the hands of the people.

Political Power

Influence over institutions, leaders, and policies.

Republic

A representative democracy.

Representative Democracy

A form of government in which voters elect representatives to make decisions and pass laws on behalf of all the people, instead of allowing people to vote directly on laws.

Majority Rule

A fundamental principle of democracy that states the majority should have the power to make decisions binding for the whole population.

Minority Rights

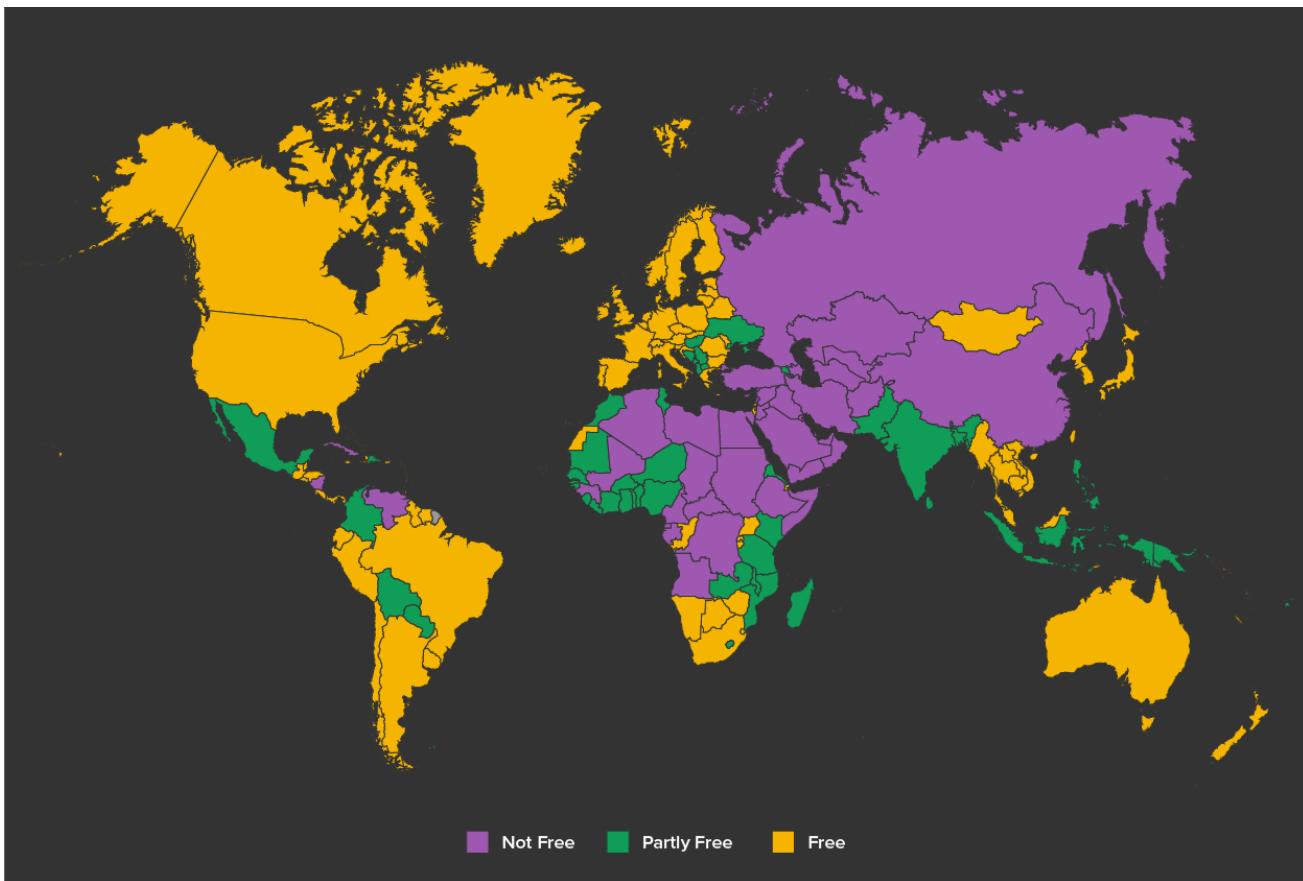
Protections for those who are not part of the majority.

2b. Limited and Unlimited Government (How Much Power)

Citizens enjoy varying degrees of freedom within different types of government. In representative democracies, citizens often enjoy a great deal of individual freedom, such as the right to vote and freedom of speech. Democracies have **limited government**. However, this is not the case in other types of governments.

Some nondemocratic societies are **totalitarian** in nature, which are societies where the government is all-powerful. Under totalitarianism, the government controls all aspects of citizens' lives and tries to shape how they behave and even how they think. The government does not allow political criticism or opposition. German-Jewish philosopher Hannah Arendt coined this term to describe the governments of the Russian communist party and the German National Socialist (Nazi) party, each of which killed millions of people while repressing opposition. North Korea is a modern-day example of a totalitarian government.

Although Nazi Germany and North Korea are clearly totalitarian, most governments lie along a continuum from free to unfree (Figure 2). 2021 marks the sixteenth consecutive year that shows an overall decline in freedom at the global level. Governments are becoming less free.



(Figure 2) An organization called Freedom House ranks countries based on individual rights, free elections, control of the media, and other factors. The Freedom Map 2021 shows free countries in yellow, unfree countries in purple, and partially free countries in green.

Source: [Freedom House](#)



TERMS TO KNOW

Limited Government

A form of government in which the rights of the people limit the powers that government can exercise.

Totalitarianism

A form of government where government is all-powerful.

3. Political versus Economic Systems

Sometimes governmental systems are confused with economic systems. This is because certain types of governments are closely related to certain types of economic systems.

3a. Capitalism

The economic system of **capitalism** in Western Europe and North America developed at roughly the same time as modern ideas about democratic republics. Capitalism is a system in which there is private ownership of the means of production for profit. Between the 17th and 18th centuries, the idea of liberty became an important concept. According to John Locke, an English political philosopher of the seventeenth century, all people are born equal and have natural rights to life, liberty, and property. From this came the idea that

people should govern themselves through elected representatives and not a king. Similarly, Adam Smith, a Scottish philosopher of the 18th century, believed that governments should not decide who gets to form businesses or sell goods. Smith and others believed in free trade, an idea that formed the basis for capitalism.

Representative government and capitalism developed together in the United States and many Americans tend to equate democracy, a political system in which people govern themselves, with capitalism. However, democracy and capitalism do not necessarily go hand in hand.

In theory, both a democratic government and capitalism promote individualism and the freedom to act as one chooses, instead of being controlled, for good or bad by government. However, capitalism can generate inequalities that make it more difficult for everyone to fully participate in the political system. For example, people from low-income households usually do not have the money and time needed to run for higher elected offices, such as Congress.



TERM TO KNOW

Capitalism

An economic system in which individuals and corporations, not the government, own the principal means of production and seek profits.

3b. Socialism and Communism

Socialism is an alternative economic system. In socialist countries, the government owns many of the means of generating wealth, such as factories, large farms, and banks. The government collects much of the wealth and then redistributes it to citizens. In socialist countries, the government also usually owns and controls utilities such as electricity, transportation systems like airlines and railroads, and telecommunications systems.

Communism is the form of socialism in which the government owns all the means of generating wealth. In communist countries, the government is an oligarchy—only members of a certain political party or ruling elite can participate in government. For example, in China, the government is run by members of the Chinese Communist Party.

Some other countries have adopted some socialist policies. For example, France and Israel were once considered socialist democracies. They have a representative democracy but provide free public healthcare and strict laws to protect workers. The government also still owns major companies in key industries, such as energy.

Many representative democracies also have programs based on the socialist idea of redistributing wealth to provide for all citizens. The United States has a social welfare system that provides healthcare services to low-income households, retirement income to the elderly, unemployment benefits to the unemployed, and otherwise supports citizens in need.



TERMS TO KNOW

Socialism

An economic system in which the government owns some of the means of generating wealth.

Communism

An economic system in which the government owns all the means of generating wealth, such as factories, large farms, and banks.

3c. Economic Restrictions on Capitalism

Most countries with representative governments place restrictions on free trade, redistribute income through taxation for public goods and services, and even own some companies or industries. These policies help the government protect its citizens and promote well-being and prosperity for all its citizens.

Even capitalist countries, such as the United States, place economic restrictions—called regulations—on industries. For example, the Food and Drug Administration is responsible for maintaining the safety of food and medicine. It places regulations on fast food restaurants, on pharmacies, and on many other industries. In this way, the government functions to protect its citizens but at the cost of some limitations on the economic freedom of individuals.



SUMMARY

In this lesson, you learned that the **function of government** in society is to protect citizens and provide goods and services. The **systems of government** we have depend on **who rules** and **how much power** they have over us. Most countries today have some form of representative government. Different types of **political systems** tend to adopt different types of **economic systems**—whether **capitalism, socialism, or communism**.

Source: THIS CONTENT AND SUPPLEMENTAL MATERIAL HAS BEEN ADAPTED FROM OPENSTAX “AMERICAN GOVERNMENT 3E” ACCESS FOR FREE AT openstax.org/details/books/american-government-3e



TERMS TO KNOW

Capitalism

An economic system in which individuals and corporations, not the government, own the principal means of production and seek profits.

Communism

An economic system in which the government owns all the means of generating wealth, such as factories, large farms, and banks.

Democracy

A government in which political power—influence over institutions, leaders, and policies—rests in the hands of the people.

Government

The means by which a society organizes itself and allocates authority to accomplish collective goals.

Limited Government

A form of government in which the rights of the people limit the powers that government can exercise.

Majority Rule

A fundamental principle of democracy that states the majority should have the power to make decisions binding for the whole population.

Minority Rights

Protections for those who are not part of the majority.

Oligarchy

A handful of elite members of society who hold all political power.

Political Power

Influence over institutions, leaders, and policies.

Politics

The process of gaining and exercising control within a government for the purpose of setting and achieving particular goals.

Representative Democracy

A form of government in which voters elect representatives to make decisions and pass laws on behalf of all the people, instead of allowing people to vote directly on laws.

Republic

A representative democracy.

Socialism

An economic system in which the government owns some of the means of generating wealth.

Totalitarianism

A form of government where government is all-powerful.

Types of Democracy

by Sophia



WHAT'S COVERED

In this lesson, you will learn about different types of democratic government. The United States is a democracy. But, what kind of democracy is it? You will discover the problems with some forms of democracy and find out how the framers of the U.S. Constitution established a type of democracy that works to avoid these issues. Specifically, this lesson covers:

1. Direct Democracy

A democracy is a political system in which people govern themselves. While democratic governments vest authority in the people, the way in which this is accomplished can look different. There are different types of democratic government.

In a **direct democracy**, people participate directly in making government decisions. For example, in ancient Athens (likely the most famous example of a direct democracy) all male citizens were allowed to attend meetings of the Assembly. They debated and voted for or against all proposed laws.

Although neither the federal government nor any of the U.S. state governments function as a direct democracy, some elements of direct democracy do exist in the United States. While residents of the different states vote for people to represent them and to make laws on their behalf in the state legislatures and in Congress, people may still directly vote on certain issues. For example, **referendums** allow citizens to vote on proposed laws and changes to constitutions directly during state or local elections, instead of leaving the matter in the hands of the state legislature. At New England town meetings, all residents are allowed to debate and vote on decisions affecting the town (Figure 1).

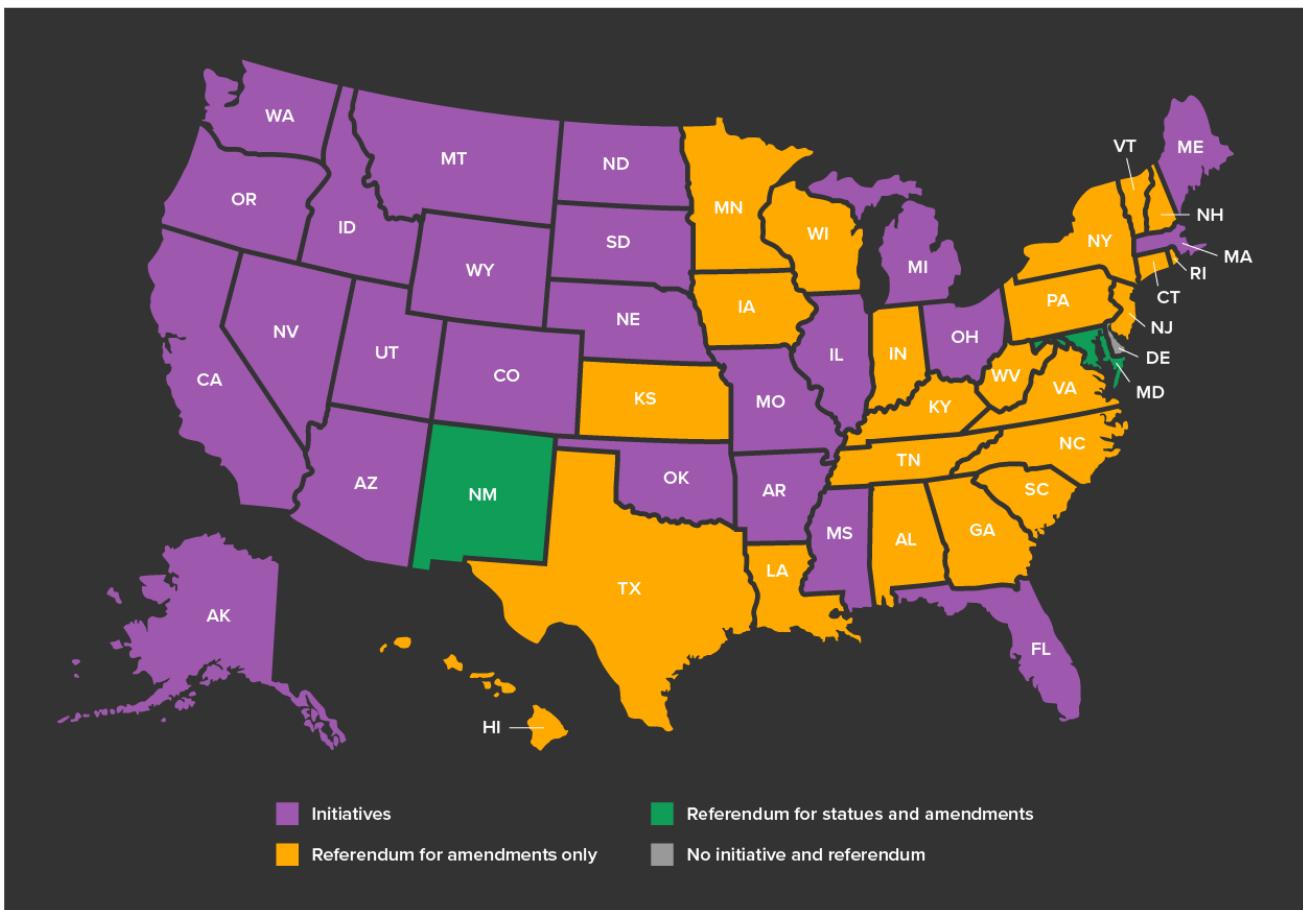


(Figure 1) In many parts of New England, town meetings provide an opportunity for people to experience direct democracy. This tradition has lasted for hundreds of years.

Many states also have mechanisms of direct democracy through which the people make important decisions through a popular vote. Some state legislatures may put a referendum into motion. They place a proposed law on the ballot, and the people in the state vote on whether or not to pass the law.

Whereas referendums call for a vote on proposed laws, also called **statutes**, some states allow citizens to vote on changes to their state constitutions. These changes are called **amendments**. Some states have both referendums and votes on amendments, some have neither, and some have one or the other. In Texas, for example, all amendments to the state constitution have to pass in this way.

The people themselves can gather enough signatures to place a proposed law on the ballot. This is called an **initiative**. Figure 2 shows the states that have initiatives and referendums.



(Figure 2) Map of states with initiatives and referendums

Source: National Conference of State Legislatures



THINK ABOUT IT

Does your state allow initiatives and referendums? What states have mechanisms of direct democracy?

Where are these states geographically?

State and local governments also have **recalls** through which they can hold an election to remove an elected official, such as a governor or a member of a school board, from office.

IN CONTEXT

In response to high taxes and homelessness, California voters launched an effort to recall California Governor Gavin Newsome in 2020. They created a recall petition and began a drive to gather 1,495,709 signatures, which was 12 percent of the total number of people who had voted in the governor's race in the previous election. This was the number they needed to force the government to hold a recall election. They had 160 days from the time of filing the petition (*Heatlie v. Padilla*, 2020). Then, the COVID pandemic hit. Their plans to collect signatures at spring and summer events were dashed. Governor Newsome issued restrictions on public gatherings to stop the spread of the deadly virus. They organized 5,000 volunteers to collect signatures, and a court extended their deadline. In the meantime, California residents grew increasingly upset with school closures, job losses, COVID restrictions, and uncertainty. When Governor Newsome appeared to have violated his own restrictions by attending an indoor party, the public was outraged. Yet, the vast majority of

Californians supported Newsome's policies. On September 14, 2021, almost 60 percent voted against the recall, and Governor Newsome remained in office.



TERMS TO KNOW

Direct Democracy

A political system in which people participate directly in making government decisions.

Referendum

A vote by the public on a proposed law or amendment that has been put on the ballot by the legislature.

Statute

A law or legal document that has the power of a law.

Amendment

A change to a constitution.

Initiative

A process that allows citizens to put a proposed law on the ballot through the collection of signatures.

Recall

An election to remove a public official from office.

2. Indirect Democracy

A representative democracy, also known as a republic, is an indirect form of democracy in which citizens elect representatives to make decisions and pass laws. For example, most Americans have no direct participation in the passage of federal laws but rather elect the president and members of Congress. The president and congress then each play a role in passing laws. So, Americans indirectly participate in the passage of laws.

Moreover, many Americans express their views about proposed legislation to their elected members of the United States House of Representatives and the United States Senate, and they expect their representative to take their views into consideration. With the power of election and reelection sitting in the hands of the people, elected officials have the incentive to listen to their constituents—the people who elect them.

3. The American Approach to Democracy

While committed to democratic ideals, the framers of the United States Constitution had several concerns about direct democracy. They worried about the ability of ordinary citizens to directly vote on public matters, and if the general public would be educated enough to make sound policy decisions. And even if they were, groups of people might band together to form a majority faction and pass laws that only serve their own interests. They might not think about the interests of others, the minority, or the best interests of the whole society. The framers called this the **tyranny of the majority**, a dynamic that occurs when a majority makes decisions or influences government exclusively for its benefit and to the detriment of a minority population.

For example, James Madison (1787), one of the framers, pointed out that “the most common and durable source of factions has been the various and unequal distribution of property.” Since the people with little property outnumber the people with a lot of property, they can form a majority and make laws that only meet

their needs. Similarly, religious majorities could pass laws to forbid the free exercise of the rituals of the religion of a religious minority.



DID YOU KNOW

The Federalist Papers are a series of articles and essays written by James Madison, John Jay, and Alexander Hamilton, and published during the debates over ratification of the U.S Constitution in 1787 and 1788. Today, they provide historians, legal scholars, judges, and others who interpret the Constitution with an account of the framers' intentions.

Finally, the framers noticed that ancient Athens and other attempts at direct democracies had not endured over time. When the interests of minority groups are consistently trampled, members of these groups might take up arms to overthrow the government. So, Madison (1787) concluded that direct democracies "have in general been as short in their lives as they have been violent in their deaths (Federalist Paper #10)."

The framers of the U.S. Constitution argued that indirect democracy allowed for the representation of minority interests. Large republics solve the problem of factions because they contain so many factions that they will have trouble uniting into a majority or acting in unison over time. However, state and local governments would introduce forms of direct democracy, such as referendums, initiatives, and recalls.



TERM TO KNOW

Tyranny of the Majority

The imposition of the will of the majority to their benefit and to the detriment of a minority population.

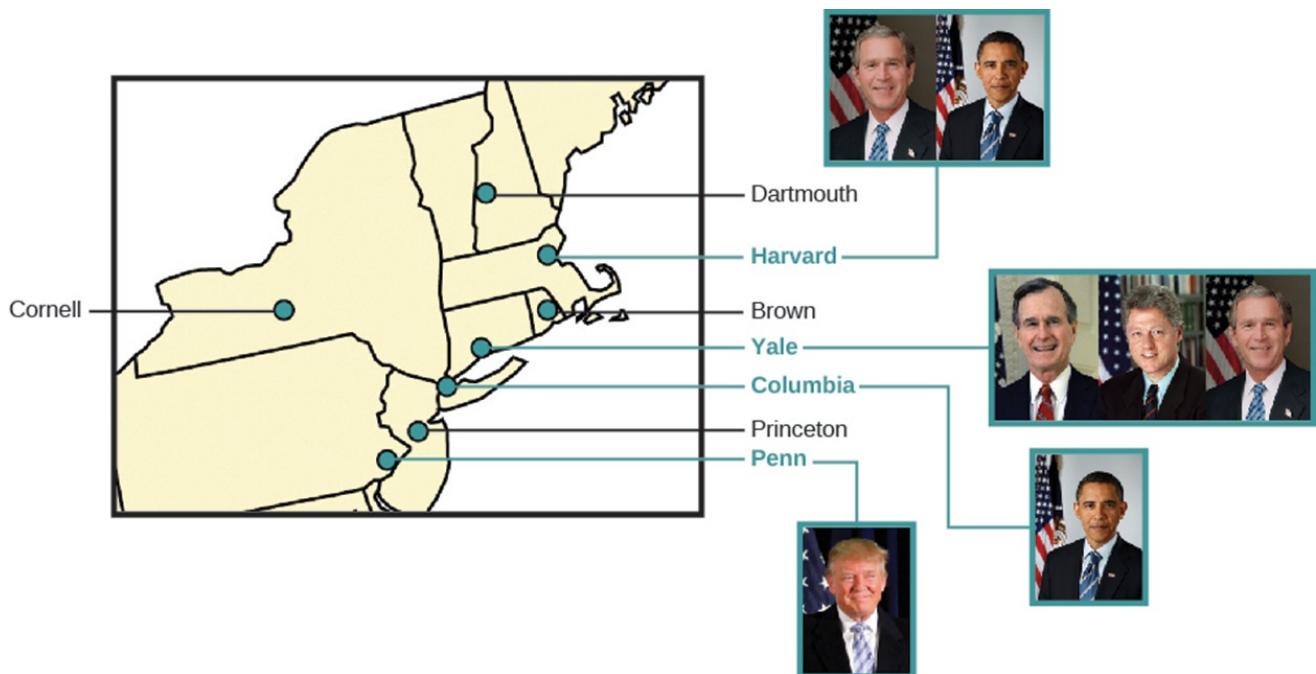
4. Theories of American Democracy

The United States allows its citizens to participate in government in many ways. The United States also has many different levels and branches of government that any citizen or group might approach. Many people take this as evidence that U.S. citizens, especially as represented by competing groups, are able to influence government actions. We have achieved the framers' goals. Other people, however, argue that this is not the case. They claim that only a handful of economic and political elites have any influence over government.

Some Americans fear that a set of elite citizens is really in charge of the government in the United States and that others have no influence. This belief is called the **elite theory** of government. In contrast, the pluralist theory of government says that political power rests with competing interest groups who share influence in government. Pluralist theorists assume that citizens who want to get involved in the system do so because of the great number of access points to government. That is, the U.S. system, with several levels and branches, has many places where people and groups can engage the government.

4a. Elite Theory

The foremost supporter of elite theory was C. Wright Mills. In his book, *The Power Elite*, Mills argued that government was controlled by a combination of business, military, and political elites. Most are highly educated and often graduated from prestigious universities (Figure 3). According to elite theory, the wealthy use their power to control the nation's economy in such a way that those below them cannot advance economically. Their wealth allows the elite to secure important positions in politics. Then, they use this power to make decisions and allocate resources in ways that benefit their group. Politicians do the bidding of the wealthy instead of attending to the needs of ordinary people, and order is maintained by force.



(Figure 3) Five of the six most recent U.S. presidents graduated from an Ivy League university.

As of 2021, one-third of U.S. presidents had attended Ivy League schools, a much higher percentage than the rest of the U.S. population. Among members of the 117th Congress (2021–2022), 94 percent of House members and 100 percent of Senators have a college degree.

Fewer than 40 percent of U.S. adults have even an associate’s degree. The majority of men and women in Congress also engaged in either state or local politics, were business people, or practiced law before being elected to Congress.

The nation’s laws are also made primarily by well-educated, white, male professionals and businessmen. Approximately 77 percent of members of Congress are Non-Hispanic whites, whereas non-Hispanic whites make up approximately 58 percent of the general population. In addition, 72 percent of members are male. Currently, about half of the members of Congress are millionaires. Their experience, therefore, does not reflect the experience of average Americans.

4b. Pluralist Theory

Pluralists argue that political power— influence over institutions, leaders, and policies—is distributed throughout society. They point out that a variety of organized groups hold power, with some groups having more influence on certain issues than others.

According to pluralist theory, people with shared interests and values will form interest groups or parties. These groups include such entities as environmental advocates, unions, and organizations that represent the interests of various businesses. Each group has particular interests. For example, the American Association of Retired People (AARP) pursues policies that help Americans who are 50 years or older. Some groups have competing interests. For example, United Steelworkers is a union that seeks good conditions, higher wages, and better working conditions for its laborers. These goals might clash with that of companies in the steel industry that seek to make a profit. Both groups influence government policies.

Thousands of interest groups exist in the United States, and many Americans report belonging to at least one group.

As groups compete with one another and find themselves in conflict regarding important issues, government policy begins to take shape. In this way, government policy is shaped by various interests, rather than by those at the top, as we see in elitist theory.

We see pluralism at work when various interest groups demand their interests be protected when a proposed law is debated. For example, proposed changes to national healthcare law may impact various populations differently. As such, these groups may all work and compete against each other for influence to ensure that they are helped and not harmed by changes to the law. The passage of the Patient Protection and Affordable Care Act (also known as ACA) demonstrated the diversity of interests in health care. When the ACA was debated by Congress, the medical community, business owners and employers, labor unions, and advocacy organizations representing women and children were among those communicating their preferences.

Robert Dahl (author of *Who Governs?*) was one of the first to advance the pluralist theory and argued that politicians seeking an “electoral payoff” are attentive to the concerns of politically active citizens and, through them, become acquainted with the needs of ordinary people. Elected representatives will attempt to give people what they want in exchange for their votes.

4c. The Tradeoffs Perspective

Although elitists and pluralists present political influence as a tug-of-war with people at opposite ends of a rope trying to gain control of government, government action and public policy are often influenced by an ongoing series of tradeoffs or compromises. In the end, the goals of both the elite and interest groups likely influence government, often resulting in compromises as elected officials attempt to please all sides.

Since the framing of the U.S. Constitution, tradeoffs have been made between those who favor the supremacy of the national government and those who believe that state governments should be more powerful.

For example, with the rapid spread of COVID-19 in 2020, a debate erupted among Americans about mask requirements, how long schools should be closed, and how much financial support to give businesses and people. President Trump, the head of the national government at the time, would have preferred to have fewer mask restrictions. However, this decision was made at the state and local levels. As a result, governors and mayors made decisions about whether masks should be worn in their areas. The Centers for Disease Control (CDC), an office of the national government, provided advice based on the latest scientific information they could obtain. Some people took to the streets to pressure their local governments to remove mask restrictions or to open up schools. In this way, many people were involved in these decisions, and these decisions were often a result of compromise.



TERMS TO KNOW

Elite Theory

The argument that a set of elite citizens is in charge of government in the United States and that others have no influence.



SUMMARY

In this lesson, you learned about the disadvantages of **direct democracy**, including the dangers of the tyranny of the majority and instability. You saw how **indirect democracy**, and in particular, large republics, avoid these dangers. You also explored how **theories of American democracy** predict who gets what, when, and how. Whereas **elite theory** argues that elites control political decisions, **pluralist theory** suggests that groups from many sectors compete against each other to establish policy.

Finally, the tradeoffs perspective points out that all decisions are a compromise between elites, interest groups, and the people who elect public officials.

Source: THIS CONTENT AND SUPPLEMENTAL MATERIAL HAS BEEN ADAPTED FROM OPENSTAX "AMERICAN GOVERNMENT 3E" ACCESS FOR FREE AT openstax.org/details/books/american-government-3e

References

Heatlie v. Padilla. 1 (Superior Court of California, 2020). Retrieved September 8, 2022, from elections.cdn.sos.ca.gov/ccrov/pdf/2020/november/20251ra.pdf

Madison, J. (1787, November 22). Federalist No. 10: *The Same Subject Continued: The Union as a Safeguard Against Domestic Faction and Insurrection*. New York Daily Advertiser.

Membership of the 117 Congress: A profile (n.d.). U.S. Congress. Retrieved August 20, 2022, from crsreports.congress.gov/product/pdf/R/R46705



TERMS TO KNOW

Amendment

A change to a constitution.

Direct Democracy

A political system in which people participate directly in making government decisions.

Elite Theory

The argument that a set of elite citizens is in charge of government in the United States and that others have no influence

Initiative

A process that allows citizens to put a proposed law on the ballot through the collection of signatures.

Recall

An election to remove a public official from office.

Referendum

A vote by the public on a proposed law or amendment that has been put on the ballot by the legislature.

Statute

A law or legal document that has the power of a law.

Tyranny of the Majority

The imposition of the will of the majorities exclusively to their benefit and to the detriment of a minority population.

Ideals of Democracy

by Sophia



WHAT'S COVERED

In this lesson, you will learn about the ideals that shape the American government. What are they, and how do they determine what we expect from government? Though we may hotly debate political issues, you may be surprised to learn that people living in a democracy share many common values. Specifically, this lesson covers:

1. Political Culture

When governments engage in politics, they make choices about how resources are allocated and which economic and social policies to pursue. These choices reflect values that people have about what government should do and how it should act. These values are part of what is called political culture. **Political culture** is comprised of widely-held beliefs, values, and attitudes about government and politics. Despite our political differences, political culture is what binds us and provides us with a common sense of who our nation is and what is acceptable.



THINK ABOUT IT

Without ever taking a course in U.S. government, you could probably name many political values.

1. Should the government pay for college instead of students? If you say no, you likely believe in **individualism**—the idea that individuals should be able to make decisions for themselves and take responsibility for them.
2. Should students whose parents attended a college have an easier time getting into that college? If you say no, then you are likely in good company. Americans tend to believe in **egalitarianism** due to their commitment to equality.

Beliefs and values around individualism, liberty, equality, and limited government are just some of the values associated with American political culture.

These values shape our collective preferences, and they orient us toward the political system. For example, preferences for limited government are not only reflected in the U.S. Constitution and other federal laws. We see this preference demonstrated in the reaction of many voters when laws that would increase the authority and power of the federal government are proposed. While voters may differ on the specifics of a proposed law, and may even disagree on whether to ultimately support the passage of a new law enhancing federal authority, scrutiny of such actions is common. The response among citizens can be traced back to the values that informed the republic's founding.

If government chooses to support an ideal such as individualism, it may loosen regulations on individuals, businesses, and industries. For example, it might lift restrictions that prevent people from fishing endangered

species, or that require people to have an industrial kitchen in order to produce and sell pickled vegetables.

If the government chooses to support an ideal such as egalitarianism, which calls for equal treatment for all and the reduction of socioeconomic inequalities, it may raise taxes in order to be able to spend more on public education, public transportation, housing for the poor, and care for the elderly.

Government decisions often involve trade-offs between competing political values.

IN CONTEXT

Americans value law and order. After the terrorist attacks of September 11, 2001, the U.S. government established a Department of Homeland Security to safeguard national security. If, for example, the government grows more concerned with national security than with **liberty**, it may authorize the tapping of people's phones, and restrict what newspapers may publish. If liberty is more important, then government will place greater restrictions on the extent that law enforcement agencies can intrude upon citizens' private communications. The political process and the input of citizens help determine the answer.

Closely related to liberty and individualism is the idea of limited government. People limit governments in order to prevent them from infringing on personal liberty and to allow individuals as much choice and responsibility as possible. Instead of government, Americans often rely on voluntary associations, religious institutions, and other types of organizations. This is because Americans have a long, rich tradition of civic engagement, and of forming organizations to achieve political, social, and economic goals—that sometimes compete with each other.



TERMS TO KNOW

Political Culture

The widely held beliefs, values, and attitudes about government and politics.

Individualism

A belief that promotes self-reliance and an individual's freedom from government control.

Egalitarianism

A belief that promotes equality among people.

Liberty

An individual right that governments cannot restrict.

2. American Political Values

American political ideas regarding liberty and self-government did not suddenly emerge at the moment the colonists declared their independence from Britain. The varied strands of what became the American republic have many roots, reaching far back in time and across the Atlantic Ocean to Europe. Indeed, it was not new ideas, but old ones, which led the colonists to revolt and form a new nation.

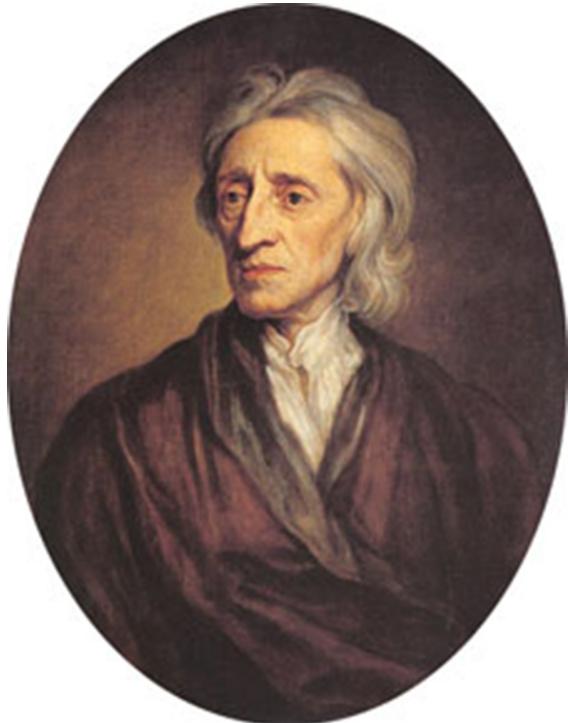
2a. Natural Rights

The beliefs and attitudes that led to the call for independence had long been an important part of colonial life.

Of all the political thinkers who influenced American beliefs about government, the most important could be John Locke (image right). John Locke was one of the most influential thinkers of the Enlightenment. His writings form the basis for many modern political ideas. The most significant contributions of Locke, a seventeenth-century English philosopher, were his ideas regarding the relationship between government and natural rights, which were believed to be man's God-given rights to life, liberty, and property.

Locke was not the first Englishman to suggest that people had rights. The British government had recognized its duty to protect the lives, liberties, and property of English citizens long before the settling of its North American colonies. In 1215, King John signed the Magna Carta—a promise to his subjects that he and future monarchs would refrain from certain actions that harmed, or had the potential to harm, the people of England. Prominent in the Magna Carta's many provisions are protections for life, liberty, and property.

The English Bill of Rights of 1689, heavily influenced by Locke's ideas, enumerated the rights of English citizens, and explicitly guaranteed rights to life, liberty, and property. This document would later profoundly influence the U.S. Constitution and Bill of Rights.



2b. Self-Rule

Perhaps the most important of Locke's ideas that influenced the British settlers of North America were those regarding the origins and purpose of government. Locke theorized that human beings, not God, had created government. People sacrificed a small portion of their freedom and consented to be ruled in exchange for the government's protection of their lives, liberty, and property. Locke called this implicit agreement between a people and their government the **social contract**. Should government deprive people of their rights by abusing the power given to it, the contract was broken and the people were no longer bound by its terms. The people could thus withdraw their consent to obey and form another government for their protection.



TERM TO KNOW

Social Contract

An implicit agreement between a people and their government.

2c. Limited Government

The belief that government should not deprive people of their liberties and should be restricted in its power over citizens' lives was an important factor in the controversial decision by the American colonies to declare independence from England in 1776. This desire to limit the power of government is closely related to the belief that people should govern themselves.

This core tenet of American political thought was rooted in a variety of traditions. First, the British government did allow for a degree of self-government. Laws were made by Parliament, and property-owning males were allowed to vote for representatives to Parliament. Thus, Americans were accustomed to the idea of representative government from the beginning. For instance, the Colony of Virginia established its House of Burgesses in 1619. Upon their departure to North America a year later, the English Separatists who settled the Plymouth Colony, commonly known as the Pilgrims, promptly authored the Mayflower Compact, which was an

agreement to govern themselves according to the laws created by the male voters of the colony.

By the eighteenth century, all the colonies had established legislatures consisting of men elected to make laws for their fellow colonists. When American colonists felt that this longstanding tradition of representative self-government was threatened by the actions of Parliament and the King, the American Revolution began.

2d. Civic Engagement

As one of the cornerstone values of American political culture, democratic ideals undergird much of what Americans expect from the nation's political system. Yet, how we interpret these ideals and how much we value one ideal over a competing ideal has changed over time.

Americans take an active part in this process—not just by electing leaders but by working together to achieve goals through civic engagement. As early as 1835, Alexis de Tocqueville (2000), a French philosopher, marveled at how Americans formed organizations to accomplish many political, social, and economic goals. He wrote the following:

"Americans of all ages, all conditions, all minds constantly unite. Not only do they have commercial and industrial associations in which all take part, but they also have a thousand other kinds... Americans use associations to give fêtes, to found seminaries, to build inns, to raise churches, to distribute books, to send missionaries to the antipodes; in this manner they create hospitals, prisons, schools." (*Democracy in America*, p. 489)

Consider the ideal of equality. John Locke believed all people were born equal and equally deserving of their natural right to liberty. However, for almost 80 years after the founding of the United States, slavery was legal and large sectors of the U.S. economy were dependent on this forced labor. Men without property did not have the same rights as men with property. Women did not have the same rights as men.

The battle to end slavery began with associations. Although some abolitionists were wealthy white men, most were ordinary people including men and women of both races. White women and African Americans were able to actively assist in the campaign to end slavery, despite the fact that, with few exceptions, they were unable to vote. The right to vote belonged solely to white men until the Fifteenth Amendment extended the vote to African American men. The Nineteenth Amendment extended the vote to include women in 1920, and the Voting Rights Act of 1965 made exercising the right to vote a reality for black men and women in the South. None of this would have happened, however, without the efforts of people who launched lawsuits, participated in boycotts, delivered speeches, wrote letters to politicians, and sometimes marched in protest in order to be heard (Figure 1). They influenced the government and society.



(Figure 1) The print above, published in 1870, celebrates the extension of the right to vote to African American men. The various scenes show legal rights that enslaved people did not have.

Participation in government matters. Although each individual may not get all that they want, they can achieve many goals and improve their lives through civic engagement.



SUMMARY

In this lesson, you learned about core **American political values**—natural rights, self-rule, limited government, and civic government—and how they form a **political culture** that shapes what Americans expect from government. Despite heated debate over political issues, most people who live in democracies share a belief that people should be treated equally, a conviction that government should be limited by civil liberties, and a sense that individuals should have the right to make decisions for themselves.

Source: THIS CONTENT AND SUPPLEMENTAL MATERIAL HAS BEEN ADAPTED FROM OPENSTAX “AMERICAN GOVERNMENT 3E” ACCESS FOR FREE AT openstax.org/details/books/american-government-3e

References

Tocqueville, A. (2000). *Democracy in America: Translated, edited, and with an introduction by Harvey C. Mansfield and Delba Winthrop*. University of Chicago Press.



TERMS TO KNOW

Egalitarianism

A belief that promotes equality among people.

Individualism

A belief that promotes self-reliance and an individual's freedom from government control.

Liberty

An individual right that governments cannot restrict.

Political Culture

The widely held beliefs, values, and attitudes about government and politics.

Social Contract

An implicit agreement between a people and their government.

The Causes of the American Revolution

by Sophia



WHAT'S COVERED

In this lesson, you will learn about the ideas and events that sparked the American Revolution, which began in 1775. What political values informed how the colonists interpreted the actions of the British king and Parliament? Many Americans still hold these values today. We will look at the interplay between political thought, economic interests, and rebellion. Specifically, this lesson covers:

1. The Ideas That Inspired the American Revolution

As you have learned, the American colonists were influenced by a set of values that shaped their views about the role of government, the rights of the individual, and justifications for rebellion. These values led the colonists to seek their independence from the British government.

The belief that government should not deprive people of their liberties and should be restricted in its power over citizens' lives was an important factor in the controversial decision by the American colonies to declare independence from England in 1776. John Locke, the English philosopher whose writings influenced many of the framers of the U.S. Constitution, argued that the people should govern themselves. Furthermore, because the authority of a ruler rested on the consent of the ruled, the people could also abolish a government that no longer had their consent. For the American colonists, intent on rebelling meant establishing a new nation and creating a new government that would be more limited in the power it could exercise over the people.

Recall that these core tenets of American political thought were rooted in a variety of traditions and experiences imported from Britain. For example, laws in Britain were made by Parliament and property-owning males were allowed to vote for representatives to Parliament. Thus, American colonists were accustomed to the idea of representative government and brought this tradition with them to the New World. As early as 1619, the Colony of Virginia established a representative assembly called the House of Burgesses to govern the colony's various settlements. In the northern colonies, the tradition of representative government was established at the very outset by English Pilgrims who founded the Plymouth colony in Massachusetts and by their Puritan counterparts who founded the Massachusetts Bay colony in present-day Boston.

By the eighteenth century, all the colonies had established legislatures and elected men to make laws for their fellow colonists. When American colonists felt that this longstanding tradition of representative self-government was threatened by the actions of Parliament and the King, the American Revolution began.

2. The Events That Led to the American Revolution

The American Revolution began when a small and vocal group of colonists in New England became convinced the king and Parliament were abusing them and depriving them of their natural rights to life, liberty, and property.

Prior to the revolution, each colony had established its own legislature. While colonists paid taxes imposed by their colonial legislatures to support local governance of the colonies, taxes imposed by England were low and mostly took the form of import and export taxes on transatlantic trade. Property ownership in the colonies was also more widespread than in England. People readily proclaimed their loyalty to the king. For the most part, for 150 years, the American colonists had been satisfied to be British citizens and had no desire to form an independent nation.

2a. Blocking Western Expansion

All this began to change in 1763 when the Seven Years' War between Great Britain and France came to an end and Great Britain gained control of most of the French territory in North America. The colonists had fought on behalf of Britain and many colonists expected that after the war they would be allowed to settle on land west of the Appalachian Mountains that had been taken from France. However, Great Britain hoped to prevent conflict with Indian tribes in the Ohio Valley and so blocked this westward expansion. Parliament passed the Proclamation of 1763, which forbade the colonists to purchase land or settle west of the Appalachian Mountains.

2b. Taxation with No Representation

To pay its significant debts from the war and to maintain the troops it left stationed in the colonies, the British government had to take new measures to raise revenue. Among the acts passed by Parliament were laws requiring American colonists to pay British merchants with gold and silver, which was more difficult to come by in the colonies, instead of paper currency. To better enforce its regulations on colonial transatlantic trade and collect tax revenue, it also mandated that suspected smugglers be tried in vice-admiralty courts, a special type of court that operated without jury trials. The right to a trial by jury was another political tradition valued by American colonists and British citizens alike. What angered the colonists most of all, however, was the imposition of direct taxes—taxes imposed by Parliament on individuals instead of on trade.

The right of the British people or their representatives to consent to taxation was enshrined in both the Magna Carta (1215) and the English Bill of Rights (1689). The Magna Carta was a promise signed by King John in 1215 to his subjects that he and future monarchs would refrain from certain actions that harmed, or had the potential to harm, the people of England. While it was intended to grant protections only to the English barons who were in revolt against King John in 1215, by the time of the American Revolution, English subjects in England and in North America had come to regard the document as a cornerstone of liberty for men of all stations. In the 1700s, taxes were imposed by the House of Commons, one of the two houses of the British Parliament. The North American colonists, however, were not allowed to elect representatives to that body. So in their eyes, direct taxation by representatives they had not voted for was a denial of their rights and demeaned their status as free men.

Members of the House of Commons had difficulty with this argument. All British subjects had to obey the laws passed by Parliament, including the requirement to pay taxes. Those who were not allowed to vote, such as women and black people, were considered to have virtual representation in the British legislature; representatives elected by those who could vote made laws on behalf of those who could not. Many male colonists, however, maintained that anything except direct representation was a violation of their rights as English subjects.

The first such tax to draw the anger of colonists was the Stamp Act, passed in 1765, which required that

almost all paper goods (such as diplomas, land deeds, contracts, and newspapers) have revenue stamps placed on them. The outcry was so great that the new tax was quickly withdrawn, but its repeal was soon followed by a series of other tax acts, such as the Townshend Acts (1767), which imposed taxes on many everyday objects, including glass, tea, and paint.

The Townshend Acts were as poorly received by the colonists as the Stamp Act had been. The Massachusetts legislature sent a petition to the king asking for relief from the taxes and requested that other colonies join in a boycott of British manufactured goods. British officials threatened to suspend the legislatures of colonies that engaged in a boycott and in response to a request for help from Boston's customs collector sent a warship to the city in 1768.

2c. Boston Massacre

A few months later, British troops arrived, and on the evening of March 5, 1770, an altercation erupted outside the customs house. Shots rang out as the soldiers fired into the crowd (Figure 1). Several people were hit; three died immediately. Initially, Britain taxed the colonists without their consent. Now, British soldiers had taken colonists' lives.



(Figure 1) The Sons of Liberty circulated this sensationalized version of the events of March 5, 1770, in order to promote the rightness of their cause. It depicts British soldiers firing on unarmed civilians in the event that became known as the Boston Massacre.

Following this event, later known as the Boston Massacre, resistance to British rule grew, especially in the colony of Massachusetts. In 1773, a group of colonists boarded a ship in Boston harbor and threw its cargo of tea, owned by the British East India Company, into the water to protest a monopoly on tea given to the British East India Company by Parliament. This act of defiance became known as the Boston Tea Party (Figure 2).



(a)



(b)

(Figure 2) Members of the modern Tea Party movement claim to represent the same spirit as their colonial forebears depicted here in the iconic lithograph. The Destruction of Tea at Boston Harbor (a), in protest against what they perceived as government interference with individual rights. In April 2010, members of a Tea Party Express rally on the Boston Common signed a signature wall to record their protest (b).

Source b: Modification of work by Tim Pierce

In the early months of 1774, Parliament responded to this latest act of colonial defiance by passing a series of laws called the Coercive Acts, intended to punish Boston for leading resistance to British rule and to restore order in the colonies. These acts abolished town meetings in Massachusetts and otherwise interfered with the colony's ability to govern itself.

2d. The Continental Congresses and the Declaration of Independence

This assault on Massachusetts enraged people throughout the colonies. In response, delegates from all the colonies, except Georgia, formed the First Continental Congress in order to create a unified opposition to Great Britain. Among other things, members of the institution developed a declaration of rights and grievances.



EVENTS TO KNOW

The Declaration of Independence (1776)

In May 1775, delegates met again in the Second Continental Congress. By this time, war with Great Britain had already begun, following skirmishes between colonial militiamen and British troops at Lexington and Concord, Massachusetts. On July 2, 1776, Congress formally declared American independence from Britain and two days later signed the Declaration of Independence.

Credited in large part to Thomas Jefferson, the Declaration of Independence (Figure 3) officially proclaimed the colonies' separation from Britain. In it, Jefferson laid out the reasons for rebellion. He wrote that God had given everyone the rights of life, liberty, and the pursuit of happiness. People had created governments to protect these rights and consented to be governed by them so long as the government functioned as intended. However, "whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government." Britain had deprived the colonists of their rights. The king had "establish[ed] . . . an absolute Tyranny over these States."

IN CONGRESS, JULY 4, 1776.

The unanimous Declaration of the thirteen united States of America,

When in the course of human events it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to this separation. — We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. — That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed. — That whenever any Form of Government becomes destructive of those ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. — Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shewn, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security. — Such has been the patient sufferance of these Colonies; and such is now the necessity which constitutes them to alter their former Systems of government. — The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. — To prove this let Facts be submitted to a candid world. — He has refused his Assent to Laws, the most wholesome and necessary for the public good. — He has forbidden his Governors to pass Laws of immediate and pressing importance, unless suspended in their operation till his Assent should be obtained; and when so suspended, he has utterly neglected to attend to them. — He has refused to pass other Laws for the accommodation of large districts of people, unless those people would relinquish the right of Representation in the Legislature, a right inseparable to them and formidable to tyrants only. — He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public Records, for the sole purpose of fatiguing them into compliance with his measures. — He has dissolved Representative Houses repeatedly, for opposing with manly firmness his invasions on the rights of the people. — He has refused for along time after such dissolutions to cause others to be elected; whereby the Legislative powers, incapable of Annihilation, have returned to the People at large for their exercise; the State remaining in the mean time exposed to all the dangers of invasion from without, and convulsions within. — He has endeavoured to prevent the population of these States; for that purpose obstructing the Laws for Naturalization of Foreigners; refusing to pass Laws to encourage their migrations hither, and raising the conditions of new Appropriations of Land. — He has obstructed the Administration of Justice, by refusing his Assent to Laws for establishing Judiciary Powers. — He has made Judges dependent on his Will alone, for the tenure of their offices, and the amount and payment of their salaries. — He has created a multitude of New Offices, and sent hither swarms of Officers to harass our people, and eat out their substance. — He has kept among us, in times of peace, Standing Armies without the Consent of our legislatures. — He has affected to render the Military independent of and superior to the Civil power. — He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his Assent to their Acts of pretended Legislation. — For quartering large bodies of armed troops among us; — For providing them, by a mock Trial, poor Punishment for any Misdemeanors which they should commit on the Inhabitants of those States; — For calling off our Trade with all parts of the world; — For enjoining Taxes on us without our Consent; — For depriving us in many cases of the benefits of Trial by jury; — For transppling us beyond Seas to try for pretended offences. — For abolishing the free System of English Laws in a neighbouring Province, establishing therein an Arbitrary government, and enlarging its Boundaries so as to render it at one an example and fit instrument for introducing the same absolute rule into these Colonies: — For taking away our Charter, abolishing our most valuable Laws, and altering fundamentally the Forms of our Governments. — For suspending our own Legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever. — He has abdicated Government here, by declining our late Resolution and waging War against us. — He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people. — He is at this time Employing large Armies of foreign Mercenaries to compleat the works of death, desolation and tyranny, already begun with circumstances of Cruelty & perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the Head of a civilized nation. — He has constrained our fellow Citizens taken Captive on the high Seas to bear Arms against their Country, to become the executioners of those friends and Brethren, & to put them to death by their hands. — He has excited domestic insurrections amongst us, and has endeavoured to bring on the inhabitants of our frontiers, the merciless Indian Savages, whose known rule of warfare, is an undistinguished destruction of all age, sex and condition. — In every stage of these Oppressions we have Petitioned for Redress in the most humble terms. Our repeated Petitions have been answered only by repeated Injury. — A Prince, whose character is thus marked by every act which may define a Tyrant, is unfit to be the ruler of a free people. — Nor have we been wanting in attentions to our Brethren in Britain. We have warned them from time to time of attempts by their Legislature to extend an unnatural jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which would inevitably interrupt our connections and correspondence. — They too have been deaf to the voice of justice and of consanguinity. — We must, therefore, acquiesce in the necessity, which denounces our Separation, and hold them, as we hold the rest of mankind, Enemies in War, in Peace Friends. —

We, therefore, the Representatives of the United States of America, in General Congress Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be, Free and Independent States; that they are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do. — And for the support of this Declaration, with a firm reliance on the Protection of Divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.

Button Gwinnett
Lyman Hall
Geo Walton.

Jm. Hooper
Joseph Hewes,
John Nixon

ation, with a firm reliance on the
John Hancock

John Penn
Edward Rutledge).
Thos Waynes & Jack.
Thomas Lynch Jr.
Arthur Middleton
Samuel Chase
Wm Paca
Thos Stone
Gaylor Carroll of Ross
George Wythe
Richard Henry
Th Jefferson
Benj Harrison
Th Nelson Jr
Francis Lightfoot Lee
Caroler Braeton

Robert Morris
Benjamin West

B. Franklin
John Morton

h *Le Mayot*
Chir. L'Amiral

John Lewis
Lewis Morris

Josiah Bartlett
W^m Whipple
Sam Adams
John Adams
Ruf Great Painter

Ellidge Gerry
Step Hopkins
William Ellery
Roger Sherman
Sam^o Huntington
M^r Williams
Oliver Wolcott
Matthew Thornton

(Figure 3) The Declaration of Independence

Source: National Archives

Jefferson then proceeded to list the many ways in which the British king had abused his power and failed in his duties. The king, Jefferson charged, had taxed the colonists without the consent of their elected representatives, interfered with their trade, denied them the right to trial by jury, and deprived them of their right to self-government. Such intrusions on their rights could not be tolerated. With their signing of the Declaration of Independence (Figure 4), the founders of the United States committed themselves to the creation of a new kind of government.



(Figure 4) The presentation of the Declaration of Independence is commemorated in a painting by John Trumbull in 1817. It was commissioned to hang in the Capitol in Washington, DC.



SUMMARY

In this lesson, you learned about the **ideas that inspired the American Revolution**. You saw how these ideas shaped how colonists interpreted the **events that led to the American Revolution**, such as the Stamp Act and the Townshend Acts. You also saw that their belief that a government's authority lies with the people's consent led the colonists to rebel against British rule openly.

Source: THIS CONTENT AND SUPPLEMENTAL MATERIAL HAS BEEN ADAPTED FROM OPENSTAX "AMERICAN GOVERNMENT 3E" ACCESS FOR FREE AT openstax.org/details/books/american-government-3e



ATTRIBUTIONS

- **United States Declaration of Independence** | **Author:** original: w:Second Continental Congress; reproduction: William Stone | **License:** Public Domain



EVENTS TO KNOW

Declaration of Independence (1776)

A document written in 1776, in which the American colonists listed their grievances against the British king, and proclaimed their independence from Great Britain.

The Articles of Confederation

by Sophia



WHAT'S COVERED

In this lesson, you will learn why the American colonies established a confederal form of government through the Articles of Confederation. You will discover how the Articles created such weaknesses that it brought the new nation to the point of crisis. Specifically, this lesson covers:

1. The New Government Established Through the Articles of Confederation

Waging war against Great Britain and becoming an independent nation required that the individual colonies—now **sovereign** states with the authority to self-govern—form a unified nation with a central government capable of directing the country's defense. Gaining recognition and aid from foreign nations would also be easier if the new United States had a national government able to borrow money and negotiate treaties.

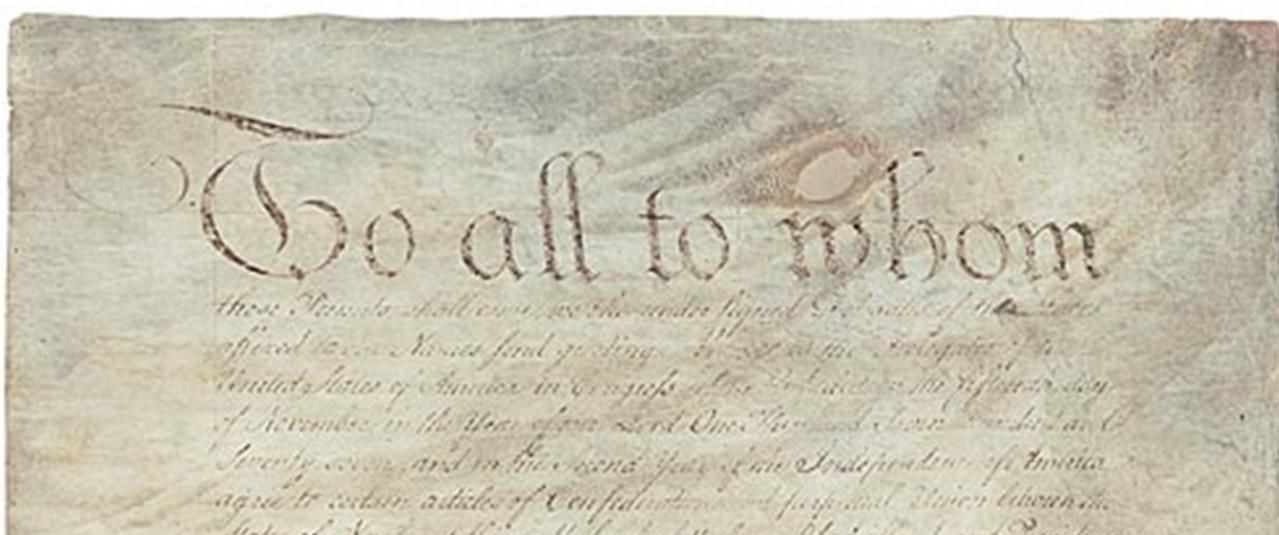
After declaring independence from Great Britain, the journey to gaining independence and forming a new government took years. Each of the states had adopted its own state constitution. In light of their experience under British rule and their new reality as an independent nation, some colonists believed there was a need for a strong national government. Others opposed the formation of a strong national government and infringement on the power held by state governments.



EVENTS TO KNOW

Articles of Confederation (1781-1789)

In 1776, the Continental Congress established a committee to draft a governing document for the new nation. In 1777, a draft of the document called the Articles of Confederation was proposed for adoption (Figure 1).



These United States of America, New Jersey, Pennsylvania, Delaware,
Maryland, Virginia, North Carolina, South Carolina, and Georgia
in the 1st of February, 1778, did, by their delegates respectively
hereinafter, the states of New Hampshire, New Jersey, Connecticut,
and Rhode Island, New York, New England, Massachusetts,
Pennsylvania, Maryland, Virginia, North Carolina, South Carolina,
and Georgia,

Article I. The name of this confederacy shall be The
United States of America.

Article II. Each state retains its sovereignty, freedom and
independence, and every power, jurisdiction and right, which is not by
this confederation expressly delegated to the United States in Congress
assembled.

Article III. The said states hereby severally enter into a firm
league of friendship with each other, for their common defense, the security
of their Liberties, and their mutual and general welfare, binding them-
selves to assist each other, against all force, expedite, or attacks made upon
them, or any of them, on account of religion, sovereignty, trade, or any other
pretended whatsoever.

Article IV. We enter to form and perpetuate mutual friendship
and intercourse among the people of the different states in this union, the
free inhabitants of each of these states, prisoners, vagabonds and fugitives
from justice excepted, shall be entitled to all franchises and immunities of
the citizens in the several states; and the people of each state shall have
free passage and navigation, and from any other state, and shall enjoy therein
all the privilege of trade and commerce, subject to the same duties, impo-
sitions and restrictions as the inhabitants thereof respectively, provided
that such restriction shall not extend so far as to prevent the removal of
property imported into any state to any other state of which the owner
is an inhabitant; provided also that no importation duties or restrictions
shall be laid by any state on the property of the united states or either of
them.

If any person guilty of, or charged with treason, felony or
other high misdemeanor in any state, shall flee from justice and have
in any of the united states, he shall, upon demand of the Governor or
executive power of the state from which he fled, be delivered up and re-
moved to the state having jurisdiction of his offense.

First birth and
credit shall be given in each of these states to the most ancient judicial
proceedings of the courts and magistrates of every other state.

Article V. For the more convenient management of the general
interests of the united states, delegates shall be annually appointed in such
manner as the legislature of each state shall direct, to meet in Congress
on the first Monday in November, in every year, with a power granted
to each state to recall its delegates, or any of them, at any time within the
year, and to send others in their stead for the remainder of the year.

(Figure 1) The Articles of Confederation.

The final draft of the Articles of Confederation, which formed the basis of the new nation's government, was accepted by Congress in November 1777 and submitted to the states for ratification. It would not become the law of the land until all thirteen states had approved it. Within two years, all except Maryland had done so. Maryland argued that all territory west of the Appalachian mountains, to which some states had laid claim, should instead be held by the national government as public land for the benefit of all the states. When the last of these states, Virginia, relinquished its land claims in early 1781, Maryland approved the Articles.

Americans wished their new government to be a republic, a form of government in which the people hold power and elect representatives to govern according to the rule of law. However, many feared that a nation as large as the United States could not be ruled effectively as one large republic. Many also worried that even a government of representatives elected by the people might become too powerful and overbearing. Thus, a **confederation** was created—a form of government in which independent, self-governing states form a union for the purpose of acting together in areas such as national defense.

In the arrangement under the Articles of Confederation, the states remained free to govern their residents as they wished. The central government had the authority to act in only a few areas of common interest. This arrangement was meant to prevent the national government from becoming too powerful or abusing the rights of individual citizens. In the balance between power for the national government and liberty for the states, the Articles of Confederation favored the states.

Powers given to the central government were severely limited. The Confederation Congress, formerly the Continental Congress, had the authority to exchange ambassadors and make treaties with foreign governments and Indian tribes, declare war, coin currency and borrow money, and settle disputes between states. Each state legislature appointed delegates to Congress. Regardless of its size or the number of delegates it chose to send, each state would have only one vote. To prevent a class of elite professional politicians from developing, delegates could serve for no more than three consecutive years. The nation would have no independent chief executive (president) or judiciary. Nine states' votes were required before the central government could act, and the Articles of Confederation could be changed only by unanimous approval of all thirteen states.



TERMS TO KNOW

Sovereign (sovereignty)

The authority to self-govern or govern another entity.

Confederation

A form of government in which independent, self-governing states form a union for the purpose of acting together in areas such as defense.

2. What Went Wrong With the Articles?

The Articles of Confederation satisfied the desire of those in the new nation who wanted a weak central government with limited power. However, it soon became apparent that, while the Articles protected the sovereignty of the states, the document created a central government too weak to function effectively (Table 1).

Table 1 Weak Central Government and the Articles of Confederation

Weakness of the Articles of Confederation	Why Was This a Problem?
-------------------------------------------	-------------------------

The national government could not impose taxes on citizens. It could only request money from the states.	Requests for money were usually not honored. As a result, the national government did not have money to pay for national defense or fulfill its other responsibilities.
The national government could not regulate foreign trade or interstate commerce.	The government could not prevent foreign countries from hurting American competitors by shipping inexpensive products to the United States. It could not prevent states from passing laws that interfered with domestic trade.
The national government could not raise an army. It had to request the states to send men.	State governments could choose not to honor Congress's request for troops. This would make it hard to defend the nation.
Each state had only one vote in Congress regardless of its size.	Populous states were less well-represented.
The Articles could not be changed without a unanimous vote to do so.	Problems with the Articles could not be easily fixed.
There was no national judicial system.	Judiciaries are important enforcers of national government power.

One of the biggest problems was that the national government had no power to impose taxes. To avoid any perception of "taxation without representation," the Articles of Confederation allowed only state governments to levy taxes. To pay for its expenses, the national government had to request money from the states, which were required to provide funds in proportion to the value of the land within their borders. The states, however, were often negligent in this duty and the national government was underfunded.

Without money, the government could not pay debts owed from the Revolution and it had trouble conducting foreign affairs. For example, the inability of the U.S. government to raise sufficient funds to compensate colonists who had remained loyal to Great Britain for their property losses during and after the American Revolution was one of the reasons the British refused to evacuate the land west of the Appalachians. Foreign governments were also, understandably, reluctant to loan money to a nation that might never repay it, because it lacked the ability to tax its citizens.

The fiscal problems of the central government meant that the currency it issued, called the Continental, was largely worthless and people were reluctant to use it. Furthermore, while the Articles of Confederation had given the national government the power to coin money, they had not prohibited the states from doing so as well. As a result, numerous state banks issued their own banknotes, which had the same problems as the Continental. People who were unfamiliar with the reputation of the banks that had issued the banknotes often refused to accept them as currency. This reluctance, together with the overwhelming debts of the states, crippled the young nation's economy.

The country's economic woes were made worse by the fact that the central government also lacked the power to impose tariffs on foreign imports or regulate interstate commerce. Thus, it was unable to prevent British merchants from flooding the U.S. market with low-priced goods after the Revolution, and American producers suffered from the competition. Compounding the problem, states often imposed tariffs on items produced by other states and otherwise interfered with their neighbors' trade.

Finally, the national government also lacked the power to raise an army or navy. Fears of a standing army under the control of a tyrannical government had led the writers of the Articles of Confederation to leave defense largely to the states. Although the central government could declare war and agree to peace, it had to depend upon the states to provide soldiers. If state governors chose not to honor the national

government's request, the country would lack an adequate defense. This was quite dangerous at a time when England and Spain still controlled large portions of North America.

3. Shays' Rebellion

The weaknesses of the Articles of Confederation, already recognized by many, became apparent to all as a result of an uprising of Massachusetts farmers known as Shays' Rebellion. In the summer of 1786, many farmers in western Massachusetts were heavily in debt and facing imprisonment and the loss of their lands. They owed taxes that had gone unpaid while they were away fighting the British during the Revolution. The Continental Congress had promised to pay them for their service, but the national government did not have sufficient money. Moreover, the farmers were unable to meet the new tax burden Massachusetts imposed in order to pay its own debts from the Revolution.

Led by Daniel Shays (Figure 2), the heavily indebted farmers marched to a local courthouse demanding relief. Faced with the refusal of many Massachusetts militiamen to arrest the rebels, with whom they sympathized, the governor of Massachusetts called upon the national government for assistance. However, with no power to raise an army, the national government had no troops at its disposal. After several months, Massachusetts crushed the uprising with the help of local militias and privately funded armies, but some wealthy Americans were frightened by this display of unrest on the part of poor men and the possibility of similar incidents taking place in other states. To find a solution and resolve problems related to commerce, members of Congress called for a revision of the Articles of Confederation.



(Figure 2) This contemporary depiction of Continental Army veteran Daniel Shays (left) and Job Shattuck (right), who led an uprising of Massachusetts farmers in 1786–1787 that prompted calls for a stronger national government, appeared on the cover of Bickerstaff's *Genuine Boston Almanack* for 1787.



SUMMARY

In this lesson, you learned that the **new government established through the Articles of Confederation** was a weak, confederal system. Many things went wrong with the **Articles**, leading to a government that could not impose taxes, raise an army, regulate foreign trade and interstate commerce, and could not be easily reformed to address emerging problems. As a result, the economy tanked, and the national government was unable to defend the states against both internal and foreign threats. In the end, **Shays' Rebellion** compelled the states to renegotiate the type of national government that they would have.

Source: THIS CONTENT AND SUPPLEMENTAL MATERIAL HAS BEEN ADAPTED FROM OPENSTAX “AMERICAN GOVERNMENT 3E” ACCESS FOR FREE AT openstax.org/details/books/american-government-3e



ATTRIBUTIONS

- **The Articles of Confederation** | Author: United States National Archives | License: Public Domain



TERMS TO KNOW

Confederation

A form of government in which independent, self-governing states form a union for the purpose of acting together in areas such as defense.

Sovereign (sovereignty)

The authority to self-govern or govern another entity.



EVENTS TO KNOW

Articles of Confederation (1781-1789)

The first constitution of the United States.

Compromises at the Constitutional Convention

by Sophia



WHAT'S COVERED

In this lesson, you will learn about the debates leading up to the crafting of the U.S. Constitution. Small and large states battled over-representation. Northern and southern states argued over slavery, but the framers did not try to abolish it. You will find out why. Specifically, this lesson covers:

1. Conflicts Over the New Constitution

In 1786, amid widespread acknowledgment that governing under the Articles of Confederation proved to be problematic, Virginia and Maryland invited delegates from the other eleven states to meet in Annapolis, Maryland, for the purpose of revising the document. However, only five states sent representatives. Because all thirteen states had to agree to any alteration of the Articles, the convention in Annapolis could not accomplish its goal. Two of the delegates, Alexander Hamilton and James Madison, requested that all states send delegates to a convention in Philadelphia the following year, to again attempt to revise the Articles of Confederation. This time, all the states except Rhode Island chose delegates to send to the meeting.

In May of 1787, fifty-five delegates arrived in Philadelphia for the meeting that became known as the Constitutional Convention. Many wanted to strengthen the role and authority of the national government, but they feared creating a central government that was too powerful. They wished to preserve state autonomy, although not to make the states entirely independent of the will of the national government. While seeking to protect the rights of individuals from government abuse, they nevertheless wished to create a society grounded in law and order. The delegates wished to give political rights to all free men, but they also feared the tyranny of the majority.

Delegates from small states did not want their interests pushed aside by more populous states like Virginia, and everyone was concerned about slavery. Representatives from southern states worried that other delegates might try to outlaw the institution. Those who favored a nation free of the influence of slavery feared that southerners might attempt to make it a permanent part of American society. The only decision that all could agree on was the election of George Washington, the former commander of the Continental Army and hero of the American Revolution, as the president of the convention.

1a. The Question of Representation: Small States vs. Large States

One of the first differences among the delegates was between those from large states, such as New York and Virginia, and those who represented small states, like Delaware. Small states were concerned about being underrepresented in a legislature based on population alone. They would have many fewer representatives than large states, and the large states would consistently be able to outvote them.



EVENTS TO KNOW

Virginia Plan (1787)

The delegates from Virginia called for a plan that would provide for a bicameral legislature consisting of

two houses, and the number of a state's representatives in each house was to be based on the state's population. In each state, representatives in the lower house would be elected by popular vote. These representatives would then select their state's representatives in the upper house from among candidates proposed by the state's legislature.



EVENTS TO KNOW

New Jersey Plan (1787)

Delegates from small states objected to the Virginia Plan. They backed the New Jersey Plan, which would strengthen the Articles of Confederation rather than create a new document. The plan called for a unicameral legislature with one house, in which each state would have one vote. Thus, smaller states would have the same power in the national legislature as larger states. Congress would be given the authority to regulate commerce and tax and would be empowered to select a chief executive. The chief executive would have the power to select a federal judiciary.

Larger states, however, argued that because they had more residents, they should be allotted more legislators to represent their interests (Figure 1).

Virginia Plan

Legislature

Bicameral



Representation

Population based
(higher population yields
more representation)



Role of national government

Can legislate for states
and veto state law

New Jersey Plan

Legislature

Unicameral



Representation

State based
(each state equally represented)



Role of national government

Provides defense but does
not override state authority

(Figure 1) The Virginia Plan called for a two-house legislature. Representation in both houses would be based on population. A state's representatives in one house would be elected by the state's voters. These representatives would then appoint representatives to the second house from among candidates chosen by the state's legislature. The New Jersey Plan favored maintaining a one-house Congress, with each state receiving equal representation.

1b. Slavery and Freedom

States were also divided over the issue of slavery. Following the Revolution, some of the northern states had either abolished slavery, or instituted plans by which enslaved men and women would gradually be emancipated.

→ EXAMPLE

Pennsylvania, for example, had passed the Act for the Gradual Abolition of Slavery in 1780. All people born in the state to enslaved mothers after the law's passage would become indentured servants to be set free at the age of twenty-eight. In 1783, Massachusetts freed all enslaved people within the state.

Some Americans believed slavery was opposed to the ideals stated in the Declaration of Independence. Others felt it was inconsistent with the teachings of Christianity. Some white people feared for their safety from the enslaved population or Americans' reliance on slavery was to increase.

Although some southerners shared similar sentiments, none of the southern states abolished slavery, and none wanted the Constitution to interfere with the institution. In addition to supporting the agriculture of the South, enslaved people could be taxed as property, and counted as population for purposes of a state's representation in the government. Ultimately, delegates to the Constitutional Convention carefully compromised over the issue of slavery in ways that preserved the institution.

1c. Federal Supremacy vs. State Sovereignty

Perhaps the greatest division among the states split those who favored a strong national government and those who favored limiting its powers and allowing states to govern themselves in most matters.

Supporters of a strong central government argued that it was necessary for the survival of the new nation. Without the authority to maintain and command an army and navy, the nation could not defend itself. Without the power to tax and regulate trade, the government would not have enough money to maintain the nation's defense, protect American farmers and manufacturers from foreign competition, create the infrastructure necessary for interstate commerce and communication, maintain foreign embassies, or pay federal judges and other government officials. Furthermore, other countries would be reluctant to loan money to the United States if the federal government lacked the ability to impose taxes to repay its debts.

Others, however, feared that a strong national government might become too powerful and would use its authority to oppress citizens and deprive them of their rights. They advocated for a central government with sufficient authority to defend the nation but insisted that other powers be left to the states. Such delegates supported the approach of the New Jersey Plan, which retained the unicameral Congress that had existed under the Articles of Confederation. However, it would still give additional power to the national government, such as the power to regulate interstate and foreign commerce, and to compel states to comply with laws passed by Congress.

1d. Individual Liberty vs. Social Stability

There were also fears of recreating abuses felt under British rule. The belief that the king and Parliament had deprived colonists of their liberties had led to the Revolution, and many feared the government of the United States might one day attempt to wield similar power. They wanted and expected their new government to guarantee the rights of life, liberty, and property. Others believed it was more important for the national government to maintain order, and that this might require it to limit personal liberty at times. All Americans, however, desired that the government not intrude upon people's rights to life, liberty, and property without reason.

2. The Great Compromise

Beginning in May 1787, the delegations from twelve states discussed, debated, and finally—after compromising many times—worked out a new blueprint for the nation: the U.S. Constitution. The document they created addressed the problems that plagued the national government under the Articles of Confederation. For the most part, it also resolved the conflicts between small and large states, and between northern and southern states. However, arguments remained between those who favored a strong federal government and those who argued for greater state sovereignty.

One of the important compromises was the **Great Compromise**, an agreement regarding congressional representation between large and small states. Congress, it was decided, would consist of two chambers: the Senate and the House of Representatives. Each state, regardless of size, would have two senators, making for equal representation, as had been set forth in the New Jersey Plan. Representation in the House would be

based on population. Senators were to be appointed by state legislatures, a variation on the Virginia Plan. Members of the House of Representatives would be popularly elected by the voters in each state. Elected members of the House would be limited to two years in office before having to seek reelection, and those appointed to the Senate by each state's political elite would serve a term of six years.

Congress was given great power, including the power to tax, maintain an army and a navy, and regulate trade and commerce. It could also coin and borrow money, grant patents and copyrights, declare war, and establish laws regulating naturalization and bankruptcy.

While legislation could be proposed by either chamber of Congress, it had to pass both chambers by a majority vote, before being sent to the president to be signed into law. All bills to raise revenue had to begin in the House of Representatives. Only those men elected by the voters themselves could impose taxes upon them. There would be no more taxation without representation.



TERMS TO KNOW

Great Compromise

The compromise regarding congressional representation between large and small states.

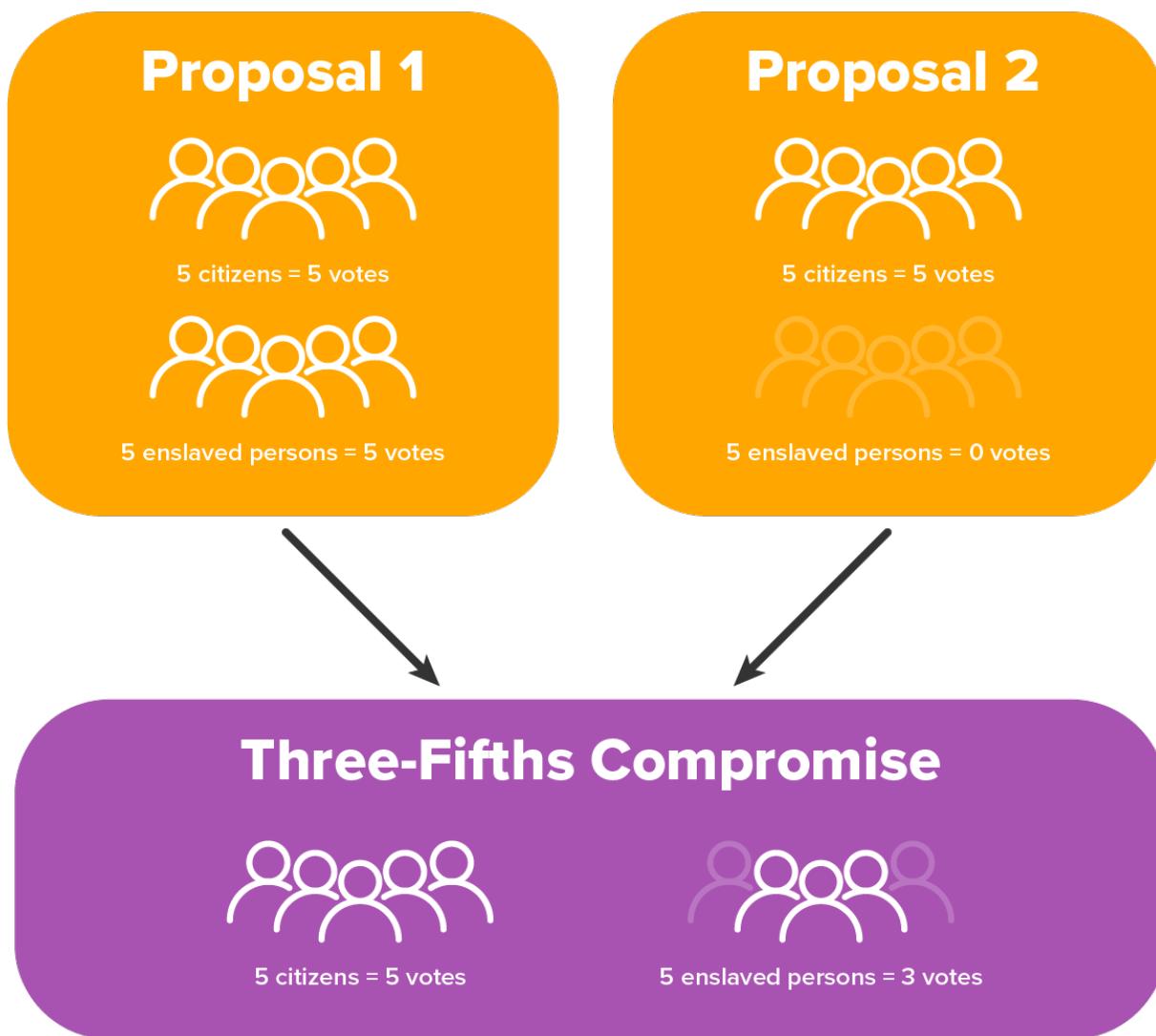
3. The Three-Fifths Compromise and the Debate Over Slavery

The argument between southern and northern states arose over the U.S. House of Representatives. When states took a count of their population for the purpose of allotting House representatives, should enslaved people be counted? Southern states were adamant that they should be. Delegates from northern states were vehemently opposed, arguing that representatives from southern states could not represent the interests of the enslaved. If enslaved people were not counted, however, southern states would have far fewer representatives in the House than northern states did.

→ EXAMPLE

For example, if South Carolina were allotted representatives based solely on its free population, it would have received only half the number of representatives it would have received if enslaved people, who made up approximately 43 percent of the population, were included.

The Three-Fifths Compromise, illustrated in Figure 2, resolved the disagreement, although not in a manner that truly satisfied anyone. For purposes of Congressional **apportionment**, the allocation of representatives in proportion to the population, slaveholding states were allowed to count all their free population, including free African Americans, and 60 percent (three-fifths) of their enslaved population. To appease the northern states, the compromise also allowed counting 60 percent of a state's enslaved population for federal taxation, although no such taxes were ever collected.



(Figure 2) This infographic shows the methods proposed for counting enslaved populations and the resulting Three-Fifths Compromise.

Another compromise was an agreement to postpone the ban on the importation of enslaved people to the United States, which would hurt the economy of southern states more than that of northern states. In return, southern states agreed to grant Congress the right to impose taxes on imports.

Because the southern states, especially South Carolina, had made it clear they would leave the convention if the abolition of slavery were attempted, no serious effort was made by the framers to do so, even though many delegates disapproved of the institution.

Instead, the Constitution contained two protections for slavery. Article I postponed the abolition of the foreign slave trade for twenty years, until 1808, and in the interim, those in slaveholding states were allowed to import as many enslaved people as they wished. Furthermore, the Constitution placed no restrictions on the domestic slave trade, so residents of one state could still sell enslaved people to other states.

Article IV of the Constitution—which, among other things, required states to return accused criminals to the states where they had been charged with crimes—also prevented the enslaved from gaining their freedom by escaping to states where slavery had been abolished. Clause 3 of Article IV (known as the fugitive slave clause) allowed enslavers to reclaim the enslaved from the states where they had fled.



WATCH

Please watch this video about compromises reached at the Constitutional Convention



TERMS TO KNOW

Apportionment

The allocation of representatives in proportion to the population.



SUMMARY

In this lesson, you learned about **conflicts over the new Constitution**. The framers argued over how to make sure the interests of small states weren't pushed aside by large states, how to count enslaved people when determining representation in the House, and how much power the national government should have over states and individuals. The framers attempt to resolve the first two conflicts through **the Great Compromise** and the **Three-Fifths Compromise**.

Source: THIS CONTENT AND SUPPLEMENTAL MATERIAL HAS BEEN ADAPTED FROM OPENSTAX "AMERICAN GOVERNMENT 3E" ACCESS FOR FREE AT openstax.org/details/books/american-government-3e



TERMS TO KNOW

Apportionment

The allocation of representatives in proportion to the population.

Great Compromise

The compromise regarding congressional representation between large and small states.



EVENTS TO KNOW

New Jersey Plan (1787)

A plan that would strengthen the Articles of Confederation and provide smaller states with the same power in the national legislature as larger states.

Virginia Plan (1787)

A plan that would provide for a bicameral legislature consisting of two houses, and the number of a state's representatives in each house was to be based on the state's population.

Principles of U.S. Government

by Sophia

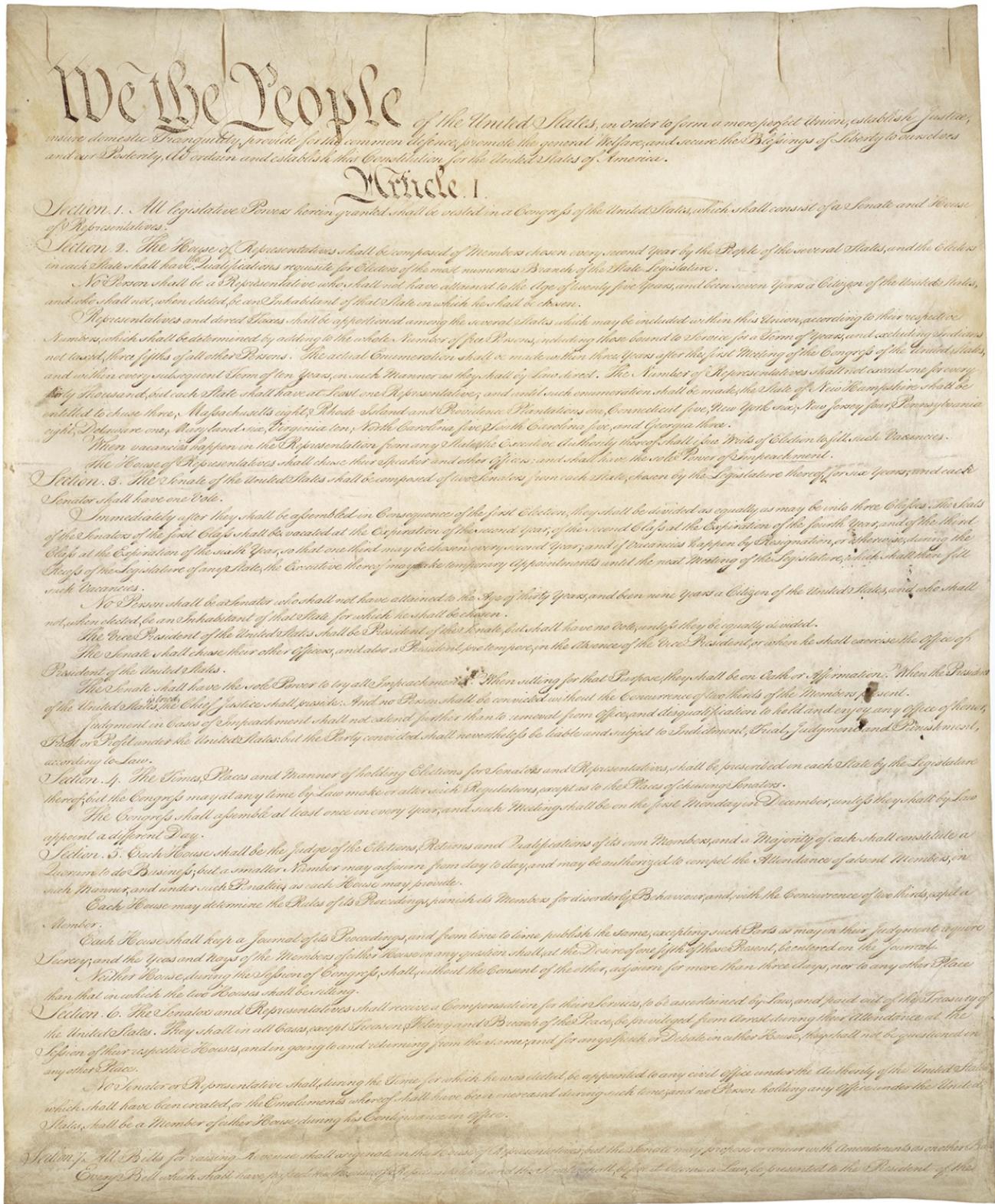


WHAT'S COVERED

In this lesson, you will learn about the principles and features of the U.S. government as established by the U.S. Constitution. People are usually reluctant to give more power to a body that rules over them. Why did they agree? The answer lies in part with the systems the framers put into place to limit the power of government. Specifically, this lesson covers:

1. Limits of Government Power

After continued debate and compromise, on September 17, 1787, the delegates to the Constitutional Convention in Philadelphia voted to approve the document they had drafted over the course of many months. The U.S. Constitution not only established a new form of government for the nation, but it also embodied very important principles that shaped the national government, including the separation of powers with checks and balances, the rule of law, and limited government (Figure 1).



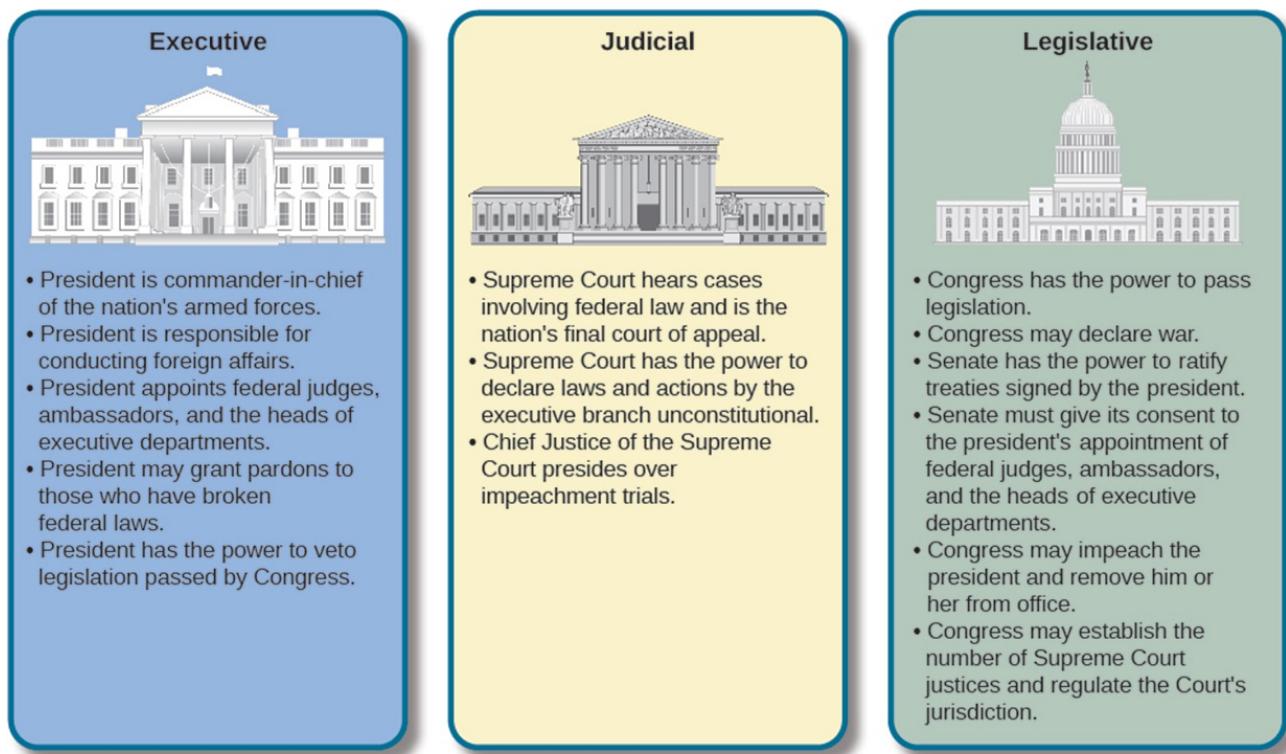
(Figure 1) An original copy of the U.S. Constitution.

Source: National Archives

1a. Separation of Powers

The representatives at the Constitutional Convention wanted to increase the authority of the national government while ensuring that it did not become too powerful. The framers resolved this problem through a **separation of powers**, dividing the national government into three separate branches and assigning different

responsibilities to each one, as shown in Figure 2. The legislative branch, Congress, was given the power to make laws. The function of the executive branch, consisting of a president and a vice president, would be to enforce laws. And, a federal judiciary, notably the Supreme Court, was created to interpret the law. Neither the executive branch nor the judicial branch had existed under the Articles of Confederation.



(Figure 2) To prevent the national government or any one group within it from becoming too powerful, the Constitution divided the government into three branches with different powers. No branch could function without the cooperation of the others and each branch could restrict the powers of the others.



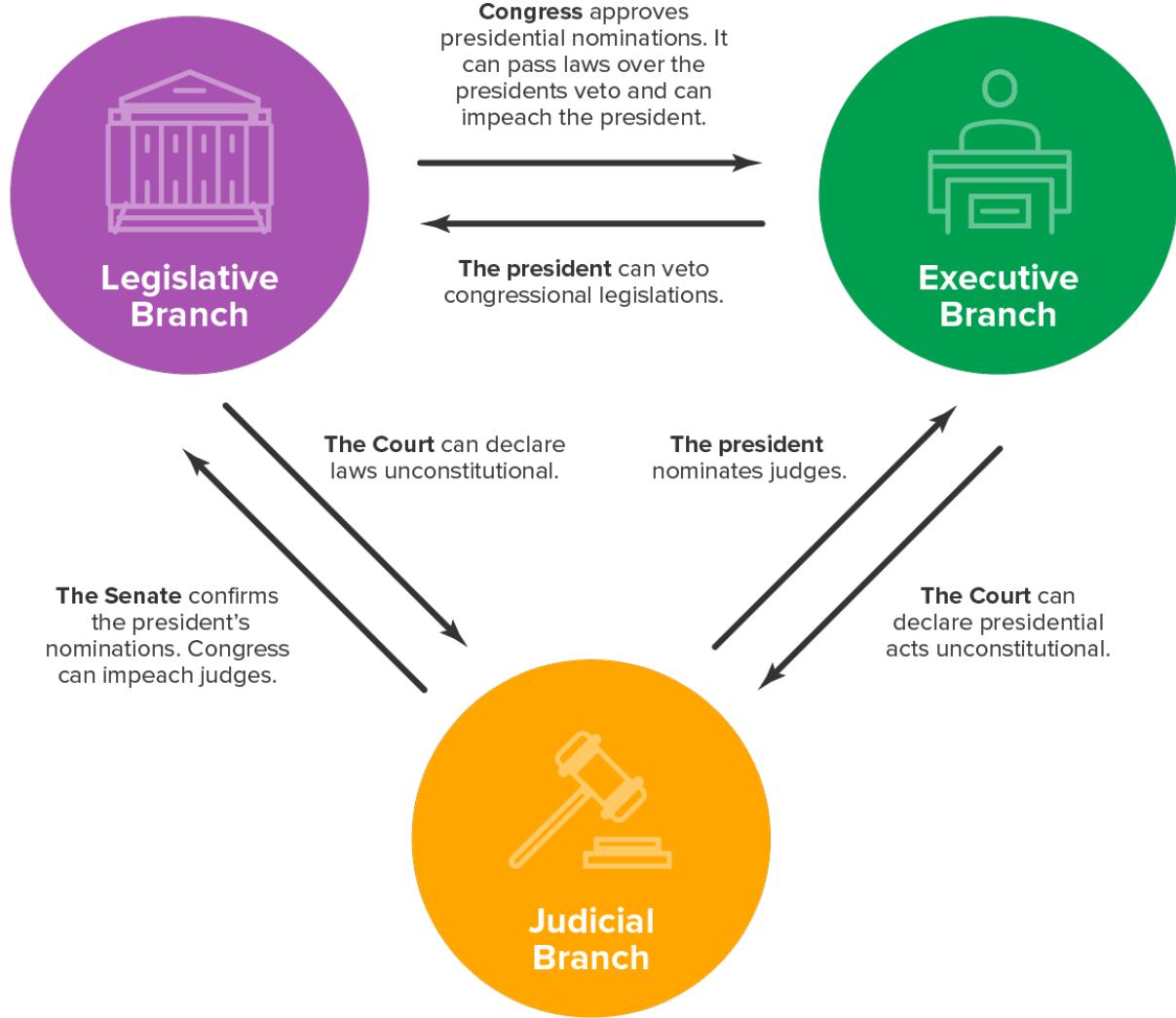
TERMS TO KNOW

Separation of Powers

The sharing of powers among three separate branches of government.

1b. Checks and Balances

The framers also created a system of **checks and balances**, by giving each of the three branches of government the power to restrict the actions of the others (Figure 3). This system would ensure that no one branch became too powerful.



(Figure 3) Checks and balances.

For example, the executive and judicial branches check Congress in a number of ways. Congress can pass laws, but its power to do so can be checked by the president, who can **veto** (meaning reject) a bill so that it cannot become a law. However, Congress can override the president's veto with a two-thirds vote in each chamber, making the bill law, even if the president refused to sign it. The power of Congress to pass laws can also be checked by the judicial branch. As of 1803, the U.S. Supreme Court established its own authority to rule on the constitutionality of laws, a process called **judicial review**. The court can invalidate laws that it finds to be in violation of the Constitution.

Congress, in turn, can check many of the president's powers. Congress is able to limit the president's power as commander-in-chief of the armed forces by refusing to declare war or provide funds for the military. To date, however, Congress has never refused a president's request for a declaration of war.

The president must also seek the advice and consent of the Senate before appointing members of the Supreme Court and ambassadors, and the Senate must approve the ratification of all treaties with foreign nations signed by the president.

Finally, Congress may even remove the president from office. To do this, both chambers of Congress must work together. The House of Representatives can **impeach** the president by bringing formal charges against the president, and the Senate tries the case in a proceeding overseen by the Chief Justice of the Supreme Court. The president is removed from office if found guilty.



DID YOU KNOW

Three presidents have been impeached: Andrew Johnson in 1868, Bill Clinton in 1998, and Donald Trump twice, in 2019 and 2021. President Johnson served during the tumultuous years that followed the Civil War. More recently, Congress has experienced an uptick in efforts to impeach sitting presidents. This may be due in part to rising partisanship, which pits the Democratic and Republican parties against each other. According to political scientist Richard Neustadt, the system of separation of powers and checks and balances does not so much allow one part of the government to control another, as it encourages the branches to cooperate. For example, knowing the president can veto a law the president disapproves of, Congress will attempt to draft a bill that addresses the president's concerns before sending it to the White House for signing. Similarly, knowing that Congress can override a veto, the president will use this power sparingly.



TERMS TO KNOW

Checks and Balances

A system that allows one branch of government to limit the exercise of power by another branch; requires the different parts of government to work together.

Veto

The power of the president to reject a law passed by Congress.

Impeach

Bring formal charges against elected and appointed officials in order to remove them from office.

2. A Federal System With Limited Government

To guarantee that the power of the national government would be restricted and that the states would retain a degree of sovereignty, the framers established a **federal system** of government. In a federal system, power is divided between the federal—or national—government and the state governments. The framers further limited the power of the national government by delineating certain rights for individuals that could not be violated.

2a. The Division of Power Between the Federal and State Governments

Explicit powers, called **enumerated powers**, were granted to the federal government. All powers not expressly given to the national government, however, were intended to be exercised by the states. These powers are known as **reserved powers**.

The enumerated powers granted to the federal government included the power to declare war, impose taxes, coin and regulate currency, regulate foreign and interstate commerce, raise and maintain an army and a navy, maintain a post office, make treaties with foreign nations and with Native American tribes, and make laws regulating the naturalization of immigrants.

The states remained free to pass laws on many other matters, such as laws regarding public safety, education, marriage, and commerce within the borders of one state (Figure 4). Some powers, such as the right to levy taxes, were given to both the state and federal governments. Both the states and the federal government have a chief executive to enforce the laws (a governor and the president, respectively) and a

system of courts.



(a)



(b)

(Figure 4) Reserve powers allow the states to pass intrastate legislation, such as laws on commerce, drug use, and marriage (a). However, sometimes judicial rulings at the federal level may supersede such legislation, as happened in *Obergefell v. Hodges* (2015), the recent Supreme Court case regarding marriage equality (b).

Source: a) Modification of work by Damian Gadal; b) Modification of work by Ludovic Bertron

Although the states retained a considerable degree of sovereignty, the **supremacy clause** in Article VI of the Constitution proclaimed that the U.S. Constitution, laws passed by Congress, and treaties made by the federal government were “the supreme Law of the Land.” In the event of a conflict between the states and the national government, the national government would triumph.

Furthermore, although the federal government was to be limited to those powers enumerated in the Constitution, Article I provided for the expansion of Congressional powers if needed to carry out its functions. The **necessary and proper clause** of Article I provides that Congress may “make all Laws which shall be necessary and proper for carrying into Execution the foregoing [enumerated] Powers....”

The Constitution also gave the federal government control over all “Territory or other Property belonging to the United States.” This would eventually lead the states into conflict when the United States expanded westward and population growth increased the power of northern states in Congress.



TERMS TO KNOW

Federal System

A form of government in which power is divided between state governments and a national government.

Enumerated Powers

The powers given explicitly to the federal government by the Constitution (Article I, Section 8); power to regulate interstate and foreign commerce, raise and support armies, declare war, coin money, and conduct foreign affairs.

Reserved Powers

Any powers not prohibited by the Constitution or delegated to the national government; powers

reserved to the states and denied to the federal government.

Supremacy Clause

The statement in Article VI of the Constitution that federal law is superior to laws passed by state legislatures.

Necessary and Proper Clause

The statement in Article I of the Constitution, also known as the elastic clause, that provides Congress with any additional powers that it may need to carry out its enumerated powers.

2b. Limited Government

The Constitution restricted the power of the national government by providing for limited government. The belief that government and people should be limited by law so that individual rights are respected is known as the **rule of law**. The very existence of the U.S. Constitution reflects this concept because it outlines the parameters of the national government and because the government is held accountable to it.

However, the Constitution also listed specific rights that the national government would protect. Article I, Section 9 of the U.S. Constitution guarantees the right of the **writ of habeas corpus**, a court order directing that an officer who has custody of a prisoner show cause why the prisoner is being held, except in cases of invasion, rebellion, or threat of public safety. Furthermore, the Constitution also prohibits Congress from passing **bills of attainder**, laws that would declare someone guilty without a trial, or **ex post facto laws**, laws that retroactively criminalize an act that was not criminal when it was performed.

As we shall see, these rights were not enough for many Americans, who insisted that additional rights be added to the Constitution. These Americans pushed for what would eventually become the Bill of Rights, the first ten amendments to the Constitution.



TERMS TO KNOW

Rule of Law

The limits on the behavior of people and institutions set by a system of laws.

Writ of Habeas Corpus

A court order directing that an officer who has custody of a prisoner show cause why the prisoner is being held) except in cases of invasion, rebellion, or threat of public safety.

Bills of Attainder

Laws that would declare someone guilty without a trial.

Ex Post Facto Laws

Laws that criminalize an act after it has been committed.



SUMMARY

In this lesson, you learned how the U.S. Constitution established a **separation of powers and checks and balances** to divide the federal government into three separate bodies: the legislative, the executive, and the judicial branches. This ensures **limits of government power**. The Constitution ensures that no single branch can dominate the others by providing, for example, the president with the right to veto a bill, and Congress with the right to override the veto. You also discovered how the Constitution established a **federal system with limited government**, by distinguishing between enumerated and reserved powers and by listing rights that the government could not violate.

Source: THIS CONTENT AND SUPPLEMENTAL MATERIAL HAS BEEN ADAPTED FROM OPENSTAX
“AMERICAN GOVERNMENT 3E” ACCESS FOR FREE AT openstax.org/details/books/american-government-3e



TERMS TO KNOW

Bill of Rights

The first ten amendments to the U.S. Constitution; most were designed to protect fundamental rights and liberties.

Bills of Attainder

Laws that would declare someone guilty without a trial.

Checks and Balances

A system that allows one branch of government to limit the exercise of power by another branch; requires the different parts of government to work together.

Enumerated Powers

The powers given explicitly to the federal government by the Constitution (Article I, Section 8); power to regulate interstate and foreign commerce, raise and support armies, declare war, coin money, and conduct foreign affairs.

Ex Post Facto Laws

Laws that criminalize an act after it has been committed.

Federal System

A form of government in which power is divided between state governments and a national government.

Impeach

Bring formal charges against elected and appointed officials in order to remove them from office.

Necessary and Proper Clause

The statement in Article I of the Constitution, also known as the elastic clause, that provides Congress with any additional powers that it may need to carry out its enumerated powers.

Reserved Powers

Powers not prohibited by the Constitution or delegated to the national government that are reserved for the states.

Rule of Law

The limits on the behavior of people and institutions set by a system of laws.

Separation of Powers

The sharing of powers among three separate branches of government.

Supremacy Clause

The statement in Article VI of the Constitution that federal law is superior to laws passed by state legislatures.

Veto

The power of the president to reject a law passed by Congress.

Writ of Habeas Corpus

A court order directing that an officer who has custody of a prisoner show cause why the prisoner is being held) except in cases of invasion, rebellion, or threat of public safety.

Debates over the Ratification of the U.S. Constitution

by Sophia



WHAT'S COVERED

In this lesson, you will learn about the ratification process for the Constitution, and the arguments between the Federalists and the Anti-Federalists regarding the benefits and the dangers of the structure of government that still exists today. Would you have supported the ratification of the Constitution? You'll discover that a critical promise the framers made to the people was to add a bill of rights. Specifically, this lesson covers:

1. The Ratification Process

On September 17, 1787, the delegates to the Constitutional Convention in Philadelphia voted to approve the document that they had drafted over the summer. Some did not support it, but the majority of delegates did. Before it could become the law of the land, however, the Constitution faced another hurdle: it had to be ratified by the states.

Article VII, the final article of the Constitution, required that before the Constitution could become law and a new government could form, the document had to be ratified, or formally approved, by at least nine of the thirteen states.

The framers side-stepped the state legislatures, whose members would be reluctant to give up their own powers to a national government. Instead, the framers specified that the Constitution would be ratified by ratification conventions in each state.

Moreover, the delegates to these conventions were chosen by a popular vote. Thus, if convention delegates, who were chosen by popular vote, approved it, then the new government could rightly claim that it ruled with the consent of the people.

The greatest sticking point when it came to ratification, as it had been at the Constitutional Convention itself, was the relative power of the state and federal governments. The framers of the Constitution believed that without the ability to maintain and command an army and navy, impose taxes, and force the states to comply with laws passed by Congress, the young nation would not survive for very long. Most everyday Americans, however, were concerned that the Constitution granted too much power to a distant federal government, only eleven years after the colonies had declared independence from Britain.

2. The Anti-Federalist and Federalist Arguments

Citizens quickly separated into two groups: Federalists and Anti-Federalists. The Federalists supported the ratification of the Constitution. They tended to be among the elite members of society—wealthy and well-

educated landowners, businessmen, and former military commanders, who believed a strong government would be better for both national defense and economic growth. The Federalist sentiment was concentrated in urban areas with strong economic potential and in parts of New England.

Opponents of ratification were called Anti-Federalists. Anti-Federalists generally distrusted the elite, believed that a strong federal government would favor the interests of the rich, feared the power of a national government, and believed state legislatures, with which they had more contact, could better protect their freedoms. Anti-Federalist sentiment was especially strong in large states like Virginia, Massachusetts, and New York.

Throughout the winter of 1787–1788, educated men authored pamphlets and published essays and cartoons in a lively debate, arguing either for or against ratification (Figure 1).



(a)



(b)

(Figure 1) This *Massachusetts Sentinel* cartoon (a) encourages the state's voters to join Georgia and neighboring Connecticut in ratifying the Constitution. Less than a month later, on February 6, 1788, Massachusetts became the sixth member of the newly formed federal union (b).

2a. The Anti-Federalists

Anti-Federalists resisted increasing the powers of the national government at the expense of state governments. Virginia's Patrick Henry, for example, feared that the newly created office of president would place excessive power in the hands of one man. He also disapproved of the federal government's new ability to tax its citizens. This right, Henry believed, should remain with the states.

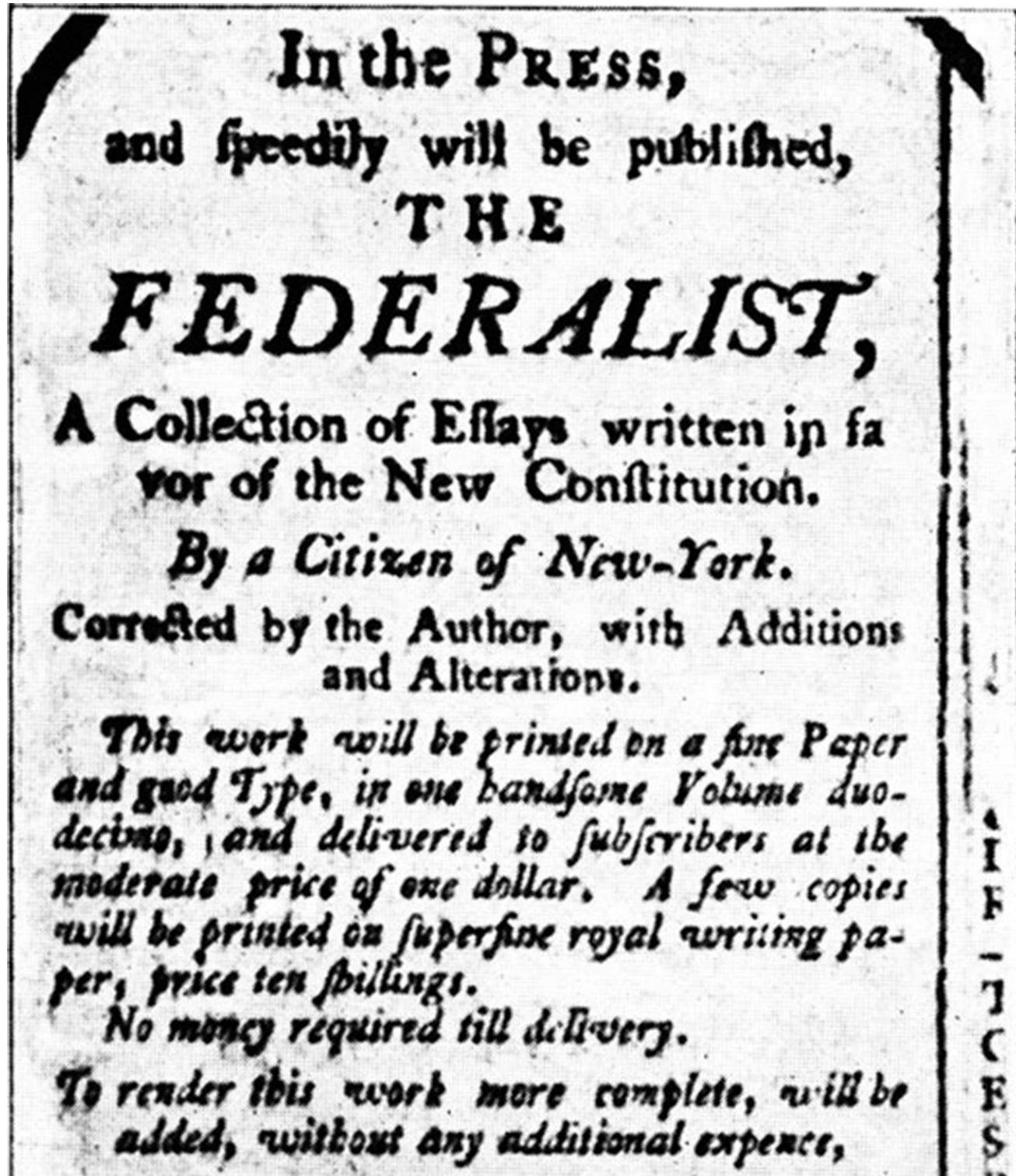
Other delegates, such as Edmund Randolph of Virginia, disapproved of the Constitution because it created a new federal judicial system. Their fear was that the federal courts would be too far away from where the defendants lived. State courts were located closer to the homes of both plaintiffs and defendants, and it was believed that judges and juries in state courts could better understand the actions of those who appeared before them. In response to these fears, the federal government created federal courts in each of the states.

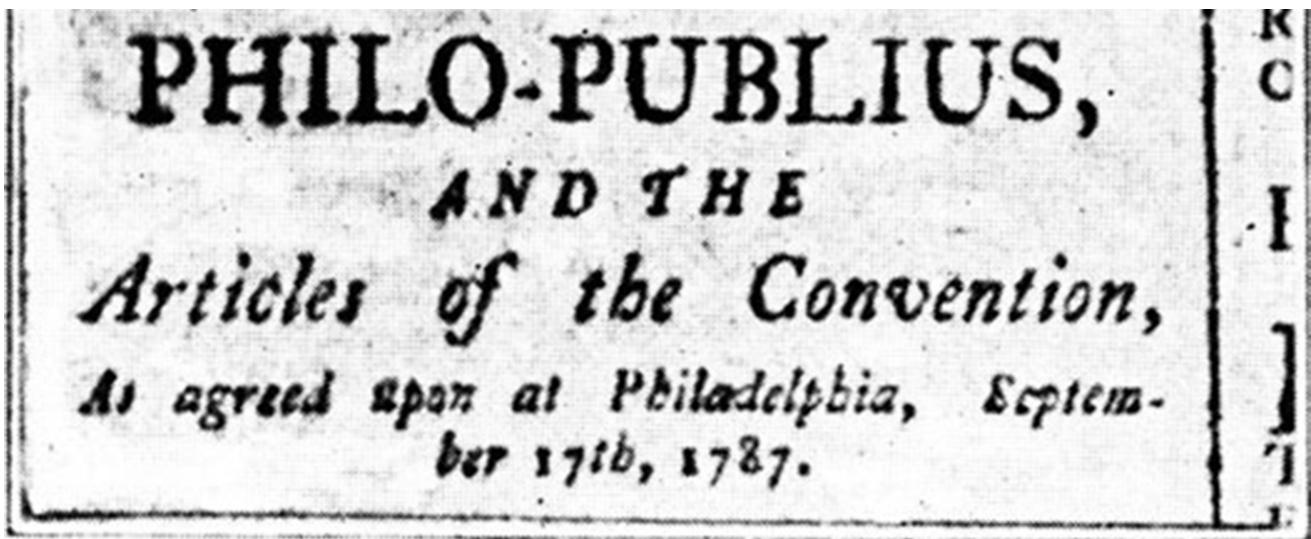
Some Anti-Federalists also believed that the large federal republic the Constitution described could not work as intended and pointed to examples of republics in the past that had only governed small territories.

Moreover, Americans had long believed that civic virtue was necessary for a nation where people governed themselves. Civic virtue was understood as the ability to put self-interest and petty concerns aside for the good of the larger community, and Anti-Federalists thought it was much more likely to occur in small republics.

2b. The Federalists

In the face of considerable opposition to the ratification of the Constitution, beginning in 1787, the framers Alexander Hamilton, James Madison, and John Jay wrote a series of essays in its support, in which they made the case for a strong federal government (Figure 2). Later compiled as *The Federalist* and now known as *The Federalist Papers*, these eighty-five essays were originally published in newspapers in New York and other states under the name of Publius, a supporter of the Roman Republic.

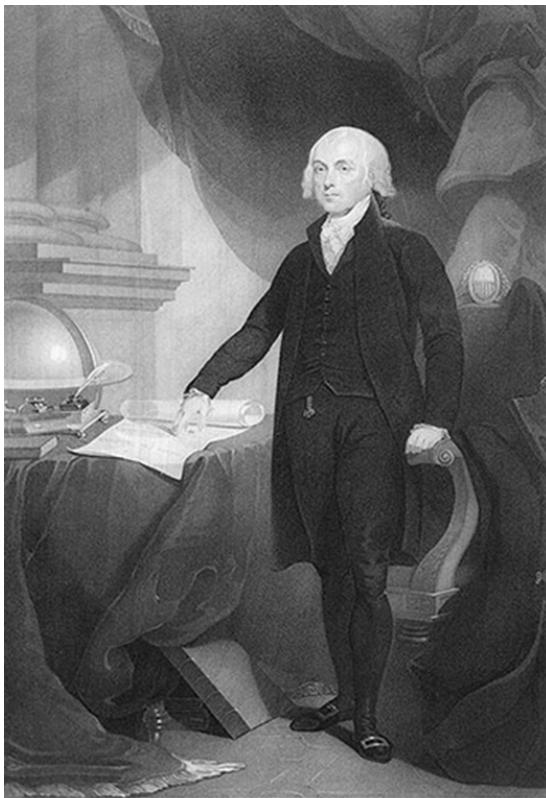




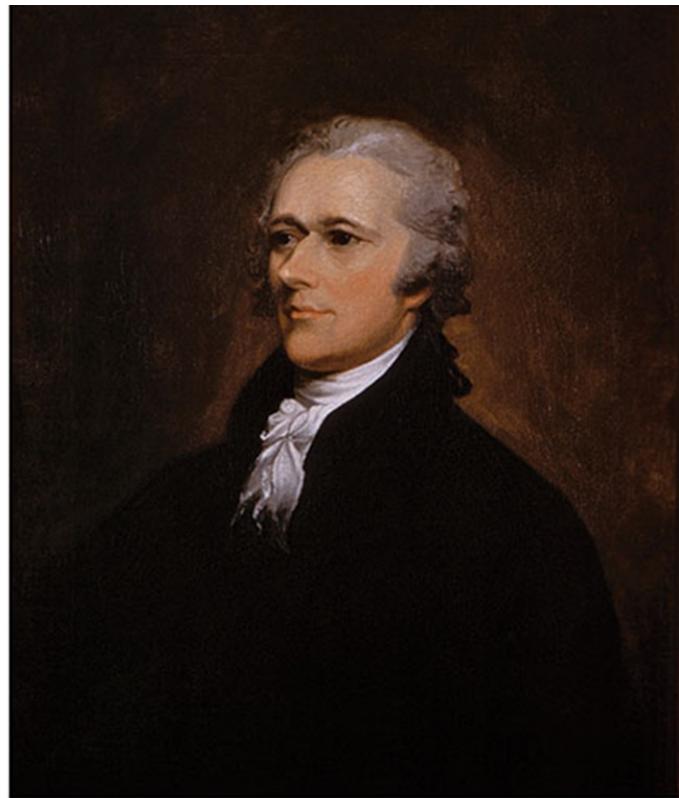
(Figure 2) From 1787 to 1788, Alexander Hamilton, James Madison, and John Jay authored a series of essays intended to convince Americans, especially New Yorkers, to ratify the new Constitution. These essays, which originally appeared in newspapers, were collected and published together under the title *The Federalist* in 1788. They are now known as *The Federalist Papers*.

The essays addressed a variety of issues that troubled citizens. For example, in *Federalist* No. 51, which is attributed to James Madison (Figure 3), the author assured readers they did not need to fear that the national government would grow too powerful. The federal system, in which power was divided between the national and state governments, and the division of authority within the federal government into separate branches, would prevent any one part of the government from becoming too strong. Furthermore, tyranny could not arise in a government in which “the legislature necessarily predominates.” Finally, the desire of officeholders in each branch of government to exercise the powers given to them, described as “personal motives,” would encourage them to limit any attempt by the other branches to overstep their authority. According to Madison, “Ambition must be made to counteract ambition.”

Other essays countered different criticisms made of the Constitution and echoed the argument in favor of a strong national government. In *Federalist* No. 35, for example, Hamilton (Figure 3) argued that people’s interests could in fact be represented by men who were not their neighbors. Indeed, Hamilton rhetorically asked would American citizens best be served by a representative “whose observation does not travel beyond the circle of his neighbors and his acquaintances” or by someone with more extensive knowledge of the world? To those who argued that a merchant and land-owning elite would come to dominate Congress, Hamilton countered that the majority of men currently sitting in New York’s state senate and assembly were landowners of moderate wealth. An aristocracy would not arise, and if it did, its members would have been chosen by lesser men.



(a)

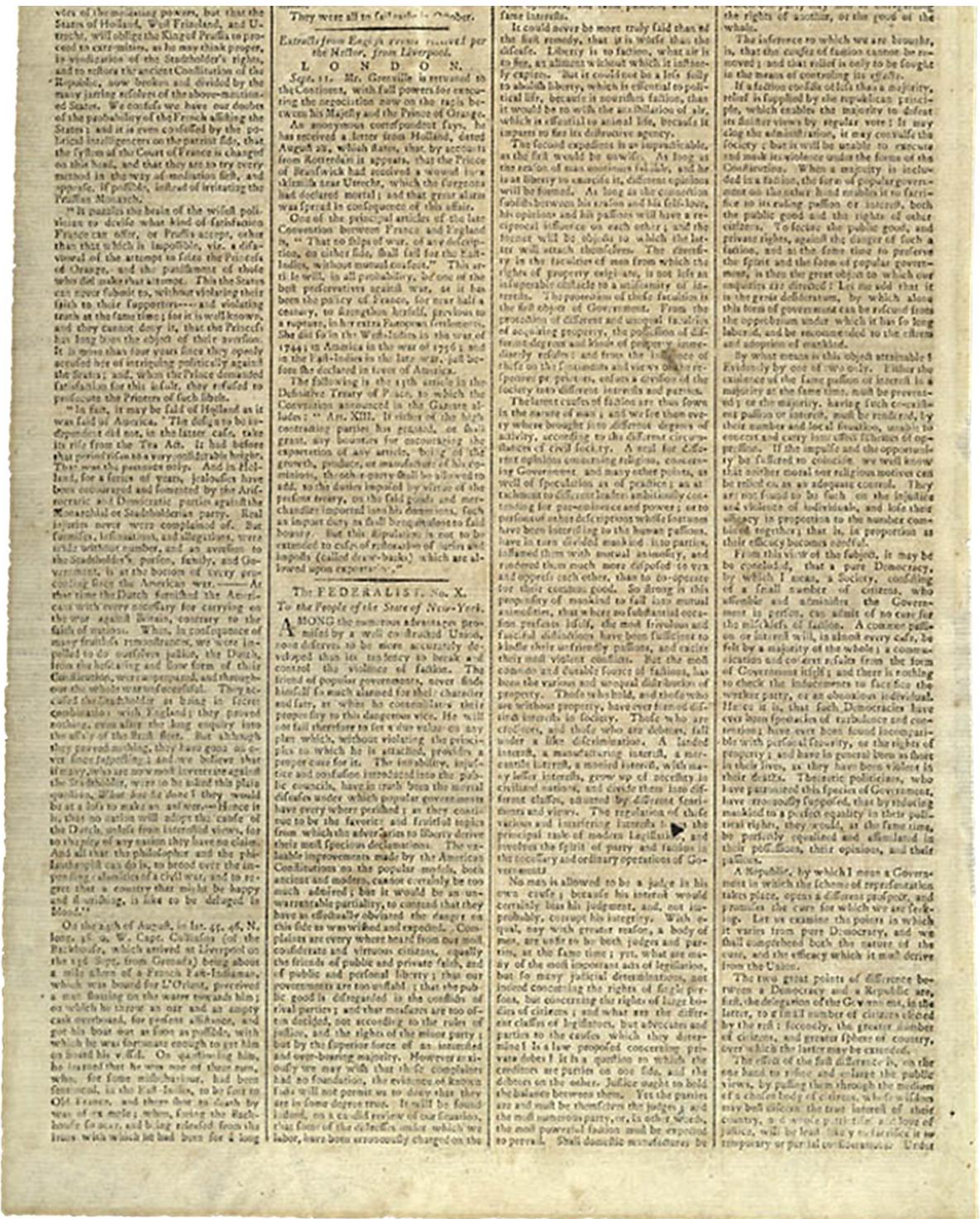


(b)

(Figure 3) James Madison (a) played a vital role in the formation of the Constitution. He was an important participant in the Constitutional Convention and later authored several of *The Federalist Papers*. Despite the fact that he did not believe that a Bill of Rights was necessary, he helped write one in order to allay the fears of those who believed the federal government was too powerful. He also served as Thomas Jefferson's secretary of state, before being elected president himself in 1808. Alexander Hamilton (b) was one of the greatest political minds of the early United States. He authored the majority of *The Federalist Papers*, and served as the Secretary of the Treasury in George Washington's administration.

Objections that an elite group of wealthy and educated bankers, businessmen, and large landowners would come to dominate the nation's politics were also addressed by Madison in *Federalist No. 10*. Americans need not fear the power of factions, he argued, for the republic was too big and the interests of its people too diverse to allow for the development of large, powerful political parties. Likewise, elected representatives, who were expected to "possess the most attractive merit," would protect the government from being controlled by "an unjust and interested [biased] majority."

<p>New-York, Nov. 22.</p> <p>The Monmouth entered in this city, to the joy of that patriotic warrior, the late General MONTGOMERY, has received the following pleasure and mortal addition, designed by Major L'ESTER, the gentleman to whom we are indebted for transmitting its original creation: — "Hymen, encircling thy torch, mounts over the tomb. From behind the pyramid rises a sun with thirteen rays, which emblematic quarter of a terrestrial globe, emblematical of America. Above the whole is the American Eagle flying from East to West, carrying in his talons a Barry curtain, in which the globe appears to have been wrapped." It must give real satisfaction to every patriotic mind, to behold the attention of genius and taste thus generously employed, in celebrating American heroism and departed virtue.</p> <p>A Liverpool paper of the 18th Sept. says, "It is not improbable, after all the endeav-</p>	<p>ours, to offend, by that natural love of life which is implanted in our nature, he took the resolution of getting out of one of the post-holes, and dropping into the water. Coming to rest in the edge of a deep cataract, than passed to his native country, where certain death awaited him; but Hamilton was very great, as he deemed no man less fit for drowning, than just to keep himself above water; for the boat, which was thrown overboard, came within five yards, he deemed not to have time to get secure to it.</p> <p>In the Liverpool papers, the Ellis, Moore, and the Jersey and Amey, West, are advertised for New-York:</p> <p>The Hall, Ward, for Philadelphia;</p> <p>The Irish Volunteer, Cork, for Baltimore;</p> <p>The Peace and Plenty, Williams, for Boston;</p> <p>The Henderon, Steel, and the Abby, Hardware, for James River;</p> <p>The Alice, Tolton's Clio, Dawling; Jane, Walpole and Alder, Sutherland; for Charl-</p>	<p>operation of our governments; but it will be found, at the same time, that other causes will not alone account, for many of our heavier misfortunes; and particularly, for that prevailing and increasing spirit of public discontent, and alarm for private rights, which are elicited from one side of the continent to the other. There will be, chiefly, if not wholly, effects of the undivided, and unequal, state, which a factional spirit has taught the people to divide.</p> <p>By a statesman I understand a number of citizens, who, in their estimation, for a variety of motives, of the whole, who are actuated by a common impulse of publick interest, to prevail in the rights of other citizens, to the permanent and aggregate interests of the community.</p> <p>There are two methods of curing the mischief of faction: the one, by removing its cause; the other, by controlling its effects.</p> <p>There are again two methods of removing the cause of faction: the one by destroying the liberty which is essential to its existence; the other, by giving to every class the</p>	<p>encouraged, and in what degree, by reflections on foreign manufacturers; a question which would be differently decided by the landed and the manufacturing classes, and probably by neither, while a sole regard to justice and the publick good. The appointment of taxes on the various descriptions of property, is an act which seems to suppose the non-existence of property; yet there is perhaps no legislative act in which greater opportunity and temptation are given to a predominant party, or tribe, to trample on the rights of justice. Every building with which they over-burden the inferior nobility, is a bidding fated to their own pocket.</p> <p>It is in vain to say, that enlightened freedom will be able to adjust their clashing interests, and render them all subservient to the publick good. Enlightened freedom will not always do so in the rule; nor, in many cases, can such an adjustment be made at all, without taking into view individual and minor considerations, which will rarely prevail over the immediate interest</p>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------



(Figure 4) Federalist Paper #10 introduced arguments in favor of a republic that would influence generations of thinkers. It explained how large republics avoid the tyranny of the majority.

For those who worried that the president might grow too ambitious or king-like, in *Federalist* No. 68, Hamilton provided assurance that placing the leadership of the country in the hands of one person was not dangerous because electors from each state would select the president. Hamilton subsequently argued in *Federalist* No. 70 that instead of being afraid that the president would become a tyrant, Americans should realize that it was easier to control one person than it was to control many. Furthermore, one person could also act with an “energy” that Congress did not possess. Making decisions alone, the president could decide what actions should be taken faster than Congress, whose deliberations, because of its size, were necessarily slow. At times, the “decision, activity, secrecy, and dispatch” of the chief executive might be necessary.



THINK ABOUT IT

What arguments advanced by the Federalists and Anti-Federalists do you find most convincing? Why do think they are persuasive? What relevance do they have to democracy today?



TERM TO KNOW

Federalist Papers

A series of essays intended to convince Americans to support the new Constitution.

3. The Bill of Rights

Prior to the ratification of the Constitution, Anti-Federalists were most dissatisfied that it did not sufficiently guarantee the protection of individual liberties. State governments had given jury trials to residents charged with violating the law, and had allowed their residents to possess weapons for their protection. Some had also guaranteed religious tolerance. The Constitution, however, did not contain reassurances that the federal government would do so as well. This led the Anti-Federalists' to call for a bill of rights, a series of amendments to the Constitution guaranteeing individual liberties, and to their refusal to ratify the document without one.

The lack of a bill of rights was especially problematic in Virginia and North Carolina. In order to secure ratification of the Constitution, the Federalists agreed to introduce a bill of rights after the ratification of the Constitution. This compromise persuaded delegates in many states to support ratification.

James Madison drafted nineteen proposed amendments and submitted them to Congress. Only twelve were approved by two-thirds of both the Senate and the House of Representatives and subsequently sent to the states for ratification. Of these, only ten were accepted by three-quarters of the state legislatures. In 1791, these first ten amendments were added to the Constitution. They are known as the Bill of Rights.

The Bill of Rights is the first ten amendments to the US Constitution (Table 1). The first eight amendments list specific rights guaranteed to individuals.

Table 1 The Bill of Rights

1	The right to free exercise of religion, the prohibition of the establishment of an official church by the federal government; the freedom of speech, press, and assembly; and petition.
2	The right to bear arms.
3	The right not to have to provide shelter and provision for soldiers in peacetime.
4	Freedom from unreasonable search and seizures of property.
5	The right to due process of law, the right not to be tried twice for the same crime and freedom from self-incrimination.
6	The rights of people accused of crimes, including the right to a public and speedy trial.
7	The right to a trial by jury for non-criminal cases.
8	Freedom from excessive bail and from cruel and unusual punishments.

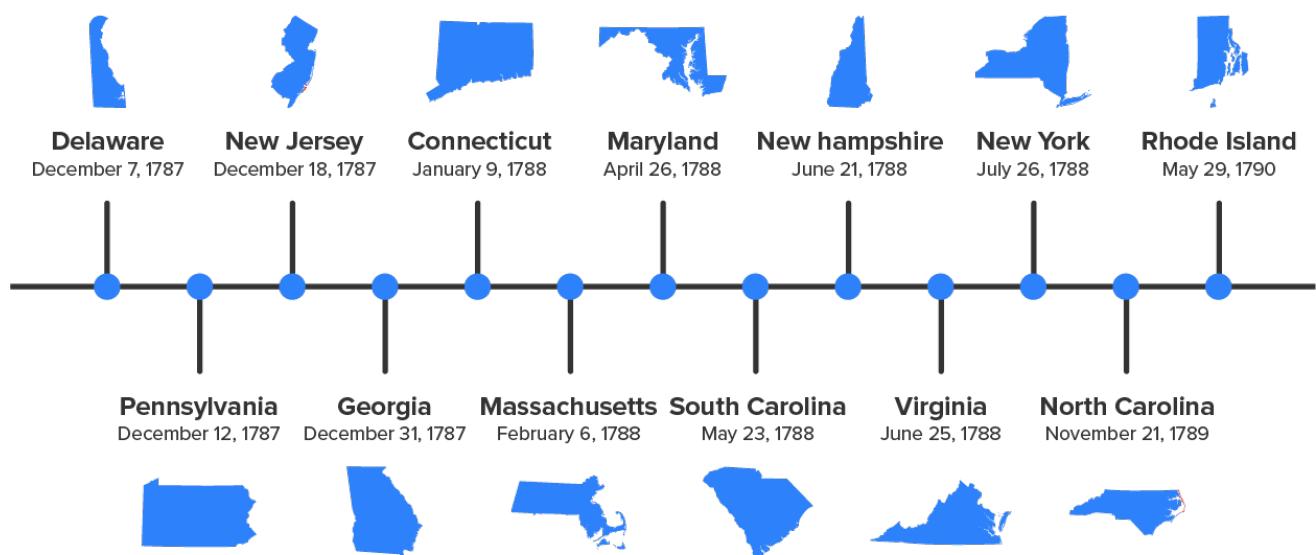
9	The right of individuals to liberties other than those explicitly mentioned by the Constitution and the Bill of Rights.
10	The rights of states to exercise powers that are not explicitly given to the federal government in the Constitution.

The Ninth and Tenth Amendments were intended to provide further assurance that people's rights would be protected and that the federal government would not become too powerful. The Ninth Amendment guarantees that individual liberties extend beyond those described in the Constitution and the Bill of Rights. This was an important acknowledgment and has served the people well. For example, the Supreme Court has held that the Ninth Amendment protects the right to privacy, even though none of the preceding amendments explicitly mentions this right.

The Tenth Amendment, one of the first submitted to the states for ratification, ensures that states possess all powers not explicitly assigned to the federal government by the Constitution. This guarantee protects states' reserved powers to regulate such things as marriage, divorce, and intrastate transportation and commerce, and to pass laws affecting education and public health and safety.

4. Ratification

Smaller, less populous states favored the Constitution and the establishment of a strong federal government. As shown in Figure 5, Delaware and New Jersey ratified the document within a few months after it was sent to them for approval in 1787. Connecticut ratified it early in 1788. Some of the larger states, such as Pennsylvania and Massachusetts, also voted in favor of the new government. New Hampshire became the ninth state to ratify the Constitution in the summer of 1788.



(Figure 5) This timeline shows the order in which states ratified the new Constitution. Small states that would benefit from the protection of a larger union ratified the Constitution fairly quickly, such as Delaware and Connecticut. Larger, more populous states like Virginia and New York took longer. The last state to ratify was Rhode Island, a state that had historically proven reluctant to act with the others.

Although the Constitution went into effect following ratification by New Hampshire, four states still remained

outside the newly formed union. Two were the wealthy and populous states of Virginia and New York. Virginia delegates were eventually swayed by the promise that the Bill of Rights would be added after the Constitution was ratified. On June 25, 1788, Virginia became the tenth state to ratify.

In New York, the arguments of the Federalists were persuasive, but whether they actually succeeded in changing the minds of New Yorkers is unclear. Once Virginia ratified the Constitution on June 25, 1788, New York realized that it had little choice but to do so as well. If it did not ratify the Constitution, it would be the last large state that had not joined the union. Thus, on July 26, 1788, the majority of delegates to New York's ratification convention voted to accept the Constitution.

A year later, North Carolina, which also held out for the Bill of Rights, became the twelfth state to approve. Alone, and realizing it could not hope to survive on its own, Rhode Island became the last state to ratify, nearly two years after New York had done so.



SUMMARY

In this lesson, you learned about **the ratification process** and **the Federalists and Anti-Federalists**.

Although three of the framers authored the Federalist Papers, which helped convince Americans to support the Constitution, the **Anti-Federalists arguments** helped persuade some states that the Bill of Rights be added to the Constitution after **ratification**. Today, the **Bill of Rights** continues to safeguard basic liberties, such as the freedom of speech, the freedom of religion, the right to bear arms, and the rights of the accused.

Source: THIS CONTENT AND SUPPLEMENTAL MATERIAL HAS BEEN ADAPTED FROM OPENSTAX "AMERICAN GOVERNMENT 3E" ACCESS FOR FREE AT openstax.org/details/books/american-government-3e



ATTRIBUTIONS

- **Federalist Paper #10** | Author: James Madison, New York Daily Advertiser, 22 November 1787



TERMS TO KNOW

Federalist Papers

A series of essays intended to convince Americans to support the new Constitution.

Amending the U.S. Constitution

by Sophia



WHAT'S COVERED

In this lesson, you will learn about the process of amending the U.S. Constitution. The Constitution has only been amended 27 times in over 230 years. Yet, there are other ways in which the interpretation of the Constitution has changed over time. Specifically, this lesson covers:

1. The Formal Amendment Process

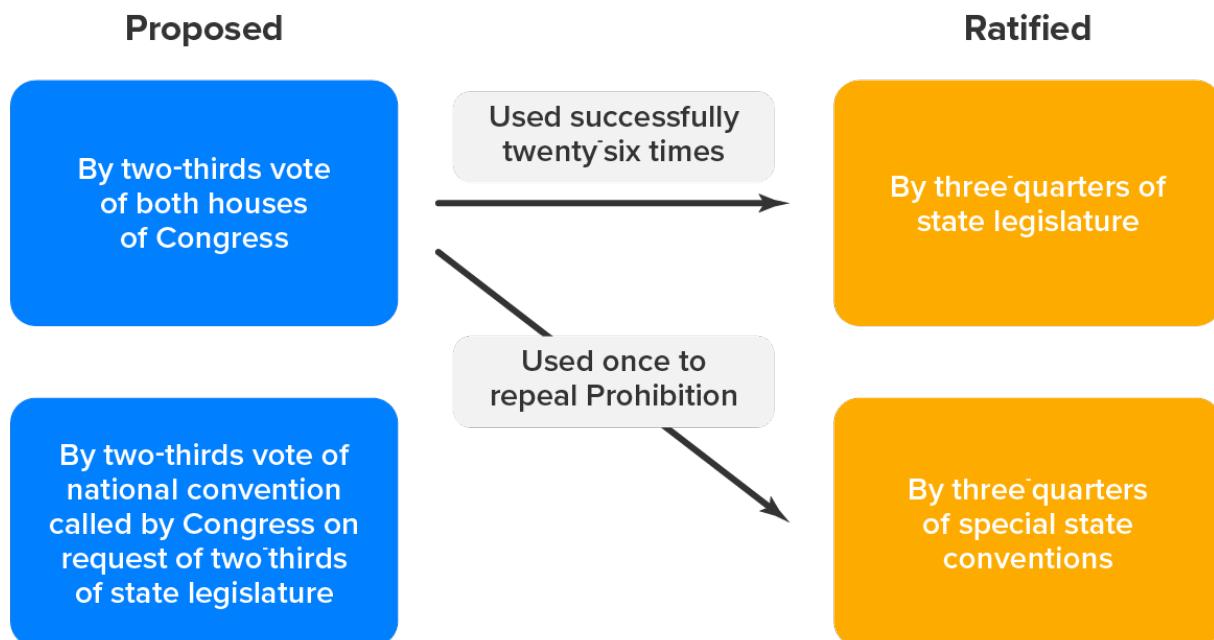
A major problem with the Articles of Confederation had been the nation's inability to change them without the unanimous consent of all the states. The framers learned from this mistake. A strength of the Constitution was the ability to amend it to meet the nation's needs, reflect changing times, and address concerns or structural elements that the framers had not anticipated.

When James Madison, a member of Congress from Virginia, took the lead in drafting the potential changes to the Constitution that would eventually become the Bill of Rights, he followed the procedure outlined in Article V. The article specifies that amendments can originate from one of two sources: Congress, or two-thirds of the states.

If Congress proposes an amendment, it must be approved by a two-thirds majority in both the House and the Senate, before being sent to the states for potential ratification. States have two ways to ratify or defeat a proposed amendment. First, if three-quarters of state legislatures vote to approve an amendment, it becomes part of the Constitution. Second, if three-quarters of state ratifying conventions support an amendment, it is ratified.

A second method for the proposal of an amendment allows for the petitioning of Congress by the states. Upon receiving such petitions from two-thirds of the states, Congress must call a convention for the purpose of proposing amendments, which would then be forwarded to the states for ratification by the required three-quarters. All the current constitutional amendments were created using the first method of proposal (via Congress).

An amendment to the U.S. Constitution can be...



(Figure 1) The different ways states and Congress can work to propose and ratify an amendment to the U.S. Constitution.

The ability to change the Constitution has made it a flexible, living document, which can respond to the nation's changing needs. This has helped it remain in effect for more than 234 years.

At the same time, the framers made amending the document sufficiently difficult that it has not been changed frequently. Only seventeen amendments have been added since the ratification of the first ten. Recent conversations about needed amendments have related to women's rights, flag burning, and reforming the Electoral College. To date, none of these has advanced to the states.

2. Constitutional Change Through Interpretation and Practice

While the framers intentionally put in place a difficult amendment process to ensure the Constitution's stability and to prevent constant changes to the document, the nature of the Constitution itself assured that it could be interpreted and reinterpreted in response to the changing needs of society. Unlike **statutory laws**, which are laws passed by a legislature with specific directions, much of the language in the Constitution refers to frameworks and principles by which the federal government should abide. This left room for significant growth and change through the application of the Constitution, or when brought before the federal judiciary for formal interpretation.

For example, although the Constitution granted the federal government the power to tax the people, it did not specify how this should be done. As a result, the federal government has been able to adjust the way it taxes individuals and companies to best suit the needs of a changing economy.

Societal changes also affect how the Constitution is interpreted. At the time the framers crafted the phrase “We the People” in the preamble of the Constitution, only propertied white males had the right to vote. Over time, low-income men, formerly enslaved Americans, and women won the right to vote. Our collective perception of who comprises the “We the people” referenced in the Constitution has changed.



TERM TO KNOW

Statutory Law

Laws passed by a legislature.

3. Judicial Review

When there is a question about the meaning of provisions in the Constitution or how provisions should be applied, the Constitution empowers the judiciary with the power to interpret the law. However, the Constitution was silent on whether the judiciary would have the power to interpret not just laws but the Constitution itself.

The Constitution is very open-ended in its description of the rights and powers it gives to people and the government. What does the Constitution mean by giving people the right to “the free exercise of religion” or “freedom of speech”? Clearly, these statements require interpretation.

3a. Marbury v. Madison



EVENTS TO KNOW

Marbury v. Madison (1803)

In 1803, the Supreme Court granted itself the power to interpret the Constitution in the case of *Marbury v. Madison*. Today, we call this important function of the Supreme Court the power of **judicial review**.

The Supreme Court found itself in the middle of a dispute between the outgoing presidential administration of John Adams, and that of incoming president Thomas Jefferson, who led the political party that opposed Adams. It was an interesting circumstance at the time, particularly because Jefferson and the man who would decide the case—Chief Justice of the Supreme Court John Marshall—were themselves political rivals.

Upon losing the election in 1800, President Adams appointed several dozen of his Federalist party members to important positions in the federal judiciary. The Senate confirmed Adam’s nominations, but Secretary of State John Marshall failed to deliver all the commissions before Jefferson took over the presidency. As a result, several men Adams had appointed, including William Marbury, could not assume office. Marbury requested that the new secretary of state under Jefferson, James Madison, deliver his commission so that he could take office. But Jefferson and Madison wanted to fill the judicial branch with supporters of their Democratic-Republican party, not with Adams’ picks. So, Madison refused.

In late 1801, Marbury petitioned the Supreme Court to use its power under the Judiciary Act of 1789, which established the federal court system, to issue a writ of mandamus, a court order, to force Madison to deliver the commission so that Marbury could assume his office.

3b. Resolution

John Marshall, however, the same secretary of state who had failed to deliver the commission, now held the role of Chief Justice of the Supreme Court. He was in a bind. If Marshall ordered his former political rivals in the executive branch to deliver the commission, he would be seen as politically motivated and the Supreme

Court's reputation as an impartial body would suffer. Even worse, if Jefferson and Madison refused to abide by the Court's decision, the Court would become very weak, as the Court itself lacked the power to enforce its decision.

Instead of deciding for or against Marbury, Marshall and his colleagues found a better way out. In a unanimous decision, the Court ruled that the provision in the Judiciary Act that had given the Court the power to issue a writ of mandamus was unconstitutional. The Court decided that although Marbury was entitled to the job, the Court did not have the power to issue the writ and to order Madison to deliver the commission.

The decision helped the early republic overcome a partisan battle that may have destabilized it, and it also strengthened the Supreme Court. On one hand, the Supreme Court humbly declined a power—issuing a writ of mandamus—given to it by Congress, but on the other, it laid the foundation for legitimizing a much more important one—judicial review. Marbury never got his commission, but the Court's ruling in the case has become significant for the precedent it established.

3c. Later Effects

The judicial review remains a powerful check on the other branches of government. It allows the courts to look at actions taken by the other branches of government and the states to determine whether they are constitutional. If the courts find an action or law to be unconstitutional, it becomes null and void. Judicial review is an important aspect of how the Constitution is interpreted, applied, and understood by the public.

Since *Marbury*, the power of judicial review has continually expanded. The Court has not only ruled actions of Congress and the president to be unconstitutional, but it has also extended its power to include the review of state and local government. The power of judicial review is no longer even confined to the Supreme Court; it is also exercised by the lower federal courts, and even the state courts. Any legislative or executive action deemed inconsistent with the U.S. Constitution or a state constitution can be subject to judicial review.



TERM TO KNOW

Judicial Review

The power of the courts to look at actions taken by the other branches of government, and by the states, to determine whether they are constitutional.



SUMMARY

In this lesson, you learned about the **formal amendment process** and **constitutional change through interpretation and practice**. You examined the two ways that Congress and the states can formally amend the Constitution, and the process of **judicial review** as it was established by *Marbury v. Madison*. You also discovered that the Constitution's language describing the rights of citizens and the powers of government are sufficiently open-ended that they can be implemented in ways that best suit the current needs of today's society.

Source: THIS CONTENT AND SUPPLEMENTAL MATERIAL HAS BEEN ADAPTED FROM OPENSTAX “AMERICAN GOVERNMENT 3E” ACCESS FOR FREE AT openstax.org/details/books/american-government-3e



TERMS TO KNOW

Judicial Review

The power of the courts to look at actions taken by the other branches of government, and by the states, to determine whether they are constitutional.

Statutory Law

Laws passed by a legislature.



EVENTS TO KNOW

Marbury v. Madison

The Supreme Court case that established the power of judicial review.

The Federal System

by Sophia

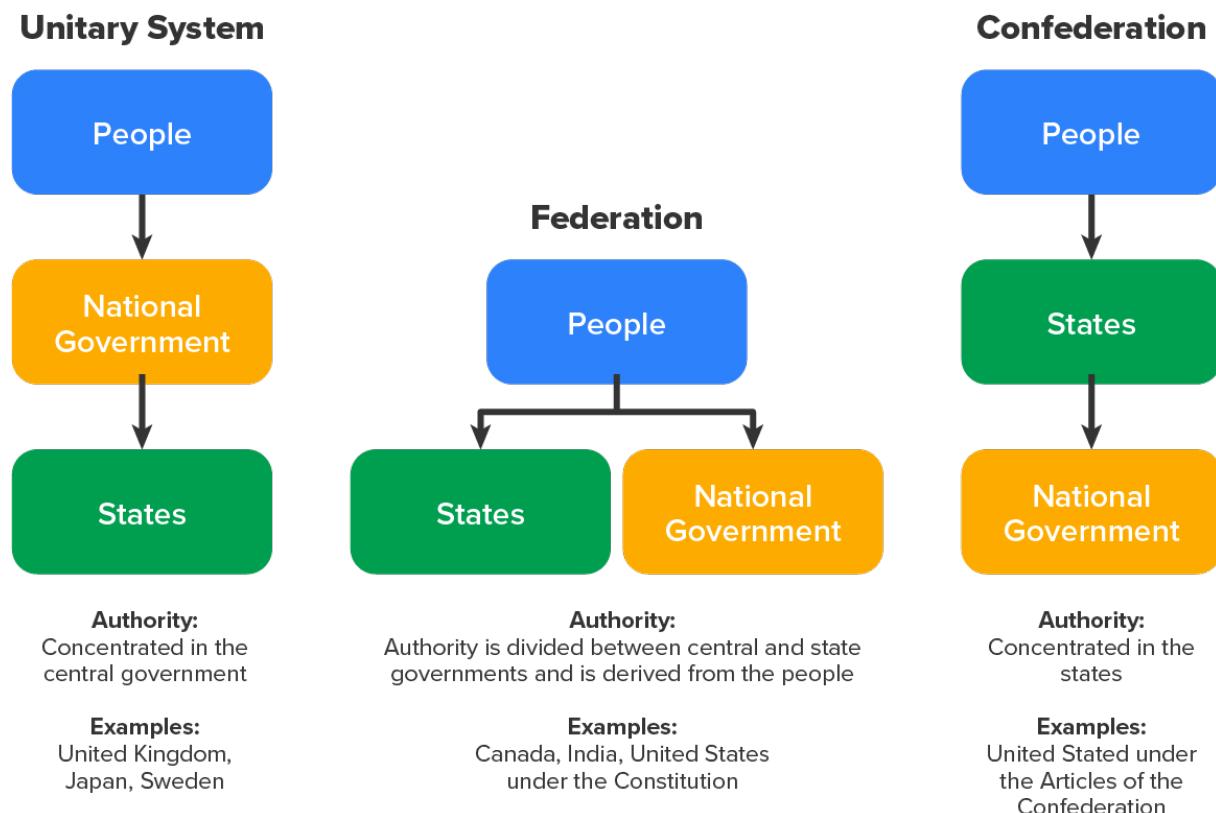


WHAT'S COVERED

In this lesson, you will learn how the Constitution structures the federal system and divides power between the national government and the states. For example, can a state legalize marijuana if the U.S. government outlaws it? You will also learn how the Constitution limits the powers of both the state and national governments. Specifically, this lesson covers:

1. Federalism and Other Systems of Government

Every country has many different governments. Cities, towns, villages, counties, provinces, and states all have governments. Many countries, such as Nigeria, Germany, and the United States, also have national governments that are above state or provincial governments. There are three ways that power can be divided between state or provincial governments and the national government (Figure 1).



(Figure 1) There are three general systems of democratic government—unitary systems, federations, and confederations—each of which allocates power differently.

In a unitary system, subnational governments—like states or provinces—derive their authority from the national government. The national government determines what powers the states and provinces have. This also means that the national government can override the decisions of the state and local governments. Japan’s national government, for example, can overrule decisions made by any of its 47 prefects, or administrative units.

In a **confederation**, authority is decentralized, and the central government’s ability to act depends on the consent of the subnational governments. Under the Articles of Confederation (the first constitution of the United States), states were sovereign and powerful, while the national government was subordinate. Because states were reluctant to give up any of their power, the national government lacked authority in the face of various challenges. It couldn’t pay back the war debt, end commercial disputes among states, negotiate trade agreements with other countries, or address popular uprisings. As the brief American experience with confederation clearly shows, the main drawback of this system of government is a weak national government.

Federalism is a system of government with two relatively independent levels, each with the capacity to act directly on behalf of the people. The United States is now a federal system, with a national government and a series of state governments.

Although today’s federal systems differ in their structure, five characteristics are common to the United States and other federal systems around the world.

- Division of power between the federal and state government, such that they must cooperate.
- A written constitution.
- Legislative, executive, and judicial branches at the state and national levels.
- A national court system that resolves disputes between the state and national levels.
- An upper house in the national legislature that represents the states.

1a. Division of Power

First, all federal systems establish two levels of government, in which officials are elected by the people. Each level also has different functions. The national government is responsible for handling matters that affect the country as a whole. For example, it defends the nation against foreign threats and promotes national economic prosperity. Subnational or state governments are responsible for matters that lie within their territories, which include ensuring the well-being of their people by administering education, health care, public safety, and other public services.

By definition, a system like this requires that different levels of government cooperate, because the institutions at each level form an interacting network. In the U.S. federal system, national matters are handled by the federal government, which is led by the president and members of Congress, all of whom are elected by voters across the country. All matters at the subnational level are the responsibility of the fifty states, each headed by an elected governor and legislature. Thus, there is a separation of functions between the federal and state governments, and voters choose the leaders at each level.

1b. A Written Constitution

The second characteristic common to all federal systems is a written national constitution that cannot be changed without the substantial consent of subnational governments. In the American federal system, the twenty-seven amendments added to the Constitution since its adoption were the result of an arduous process that required approval by two-thirds of both houses of Congress and three-fourths of the states. Third, the constitutions of countries with federal systems formally allocate legislative, judicial, and executive authority to

the two levels of government in such a way as to ensure each level some degree of autonomy from the other.

1c. Legislative, Executive, and Judicial Branches

Under the U.S. Constitution, the president assumes executive power, Congress exercises legislative powers, and the federal courts (e.g., U.S. district courts, appellate courts, and the Supreme Court) assume judicial powers. In each of the fifty states, a governor assumes executive authority, a state legislature makes laws, and state-level courts (e.g., trial courts, intermediate appellate courts, and supreme courts) possess judicial authority.

While each level of government is somewhat independent of the others, a great deal of interaction occurs among them. In fact, the ability of the federal and state governments to achieve their objectives often depends on the cooperation of the other level of government.

For example, the federal government's efforts to maintain homeland security are bolstered by the involvement of law enforcement agents working at local and state levels. On the other hand, the ability of states to provide their residents with public education and health care is enhanced by the federal government's financial assistance.

1d. National Court System

Another common characteristic of federalism around the world is that national courts commonly resolve disputes between levels and departments of government. In the United States, conflicts between states and the federal government are ruled on by federal courts, with the U.S. Supreme Court making the final decision. The resolution of such disputes can preserve the autonomy of one level of government, as illustrated when the Supreme Court ruled that states cannot interfere with the federal government's actions relating to immigration. In other instances, a Supreme Court ruling can erode that autonomy.

1e. Subnational Representation

Finally, subnational governments are always represented in the upper house of the national legislature, enabling regional interests to influence national lawmaking. In the American federal system, the U.S. Senate represents the fifty states: Each state elects two senators to ensure equal representation regardless of state population differences. Thus, federal laws are shaped in part by state interests, which senators represent in the federal policymaking process.



TERMS TO KNOW

Confederation

A system of government that is decentralized, in which the central government's ability to act depends on the consent of the subnational governments.

Federalism

A system of government with two relatively independent levels, each with the capacity to act directly on behalf of the people.

2. How Power is Divided in a Federal System

Federalism figures prominently in the U.S. political system. The Constitution divides powers between two levels of government—the states and the federal government—and creates a mechanism for them to check and balance one another.

2a. Enumerated, Reserved, and Concurrent Powers

The Constitution contains several provisions that direct the functioning of U.S. federalism. Some define the scope of national and state power, while others restrict it. The remaining provisions shape relationships among the states, and between the states and the federal government.

2a.i. Enumerated Powers

The enumerated powers of the national legislature are found in Article I, Section 8. Recall that these powers define the policy areas over which Congress has authority. In seeking to avoid the problems that plagued the young country under the Articles of Confederation, the Constitution's framers granted Congress specific powers that ensured its authority over national and foreign affairs. To provide for the general welfare of the populace, it can tax, borrow money, regulate interstate and foreign commerce, and protect property rights. To provide for the common defense of the people, the federal government can raise and support armies and declare war. Furthermore, cooperation between states is fostered by the government's powers over the coining of money, naturalization, postal services, and other responsibilities.

The last clause of Article I, Section 8, commonly referred to as the necessary and proper clause, or the **elastic clause**, enables Congress "to make all Laws which shall be necessary and proper for carrying" out its constitutional responsibilities. While the enumerated powers define the policy areas in which the national government has authority, the elastic clause allows it to create the legal means to fulfill those responsibilities.

However, the open-ended construction of this clause has enabled the national government to expand its authority beyond what is specified in the Constitution, a development that was also motivated by the expansive interpretation of the **commerce clause** which empowers the federal government to regulate interstate economic transactions.

2.a.ii. Reserved Powers

The powers of the state governments were not listed in the original Constitution. The consensus among the framers was that the states would retain any powers not prohibited by the Constitution or delegated to the national government. However, when it came time to ratify the Constitution, a number of states requested that an amendment be added explicitly identifying the reserved powers of the states. This became the Tenth Amendment, the last amendment within the Bill of Rights. The Tenth Amendment affirms the states' reserved powers: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." These powers are therefore referred to as reserved powers.

2.a.iii. Concurrent Powers

Since each level of government operates relatively independently in a federalist system, they each need to exercise some similar powers. Shared and overlapping powers are an integral part of contemporary U.S. federalism. These **concurrent powers** include taxing, borrowing money, and making and enforcing laws to establish court systems (Figure 2).

Federal Government

Enumerated Powers

- Coin money
- Regulate interstate and foreign commerce
- Conduct foreign affairs
- Establish rules of naturalization
- Punish counterfeiting
- Establish copyright/patent laws
- Regulate postal system
- Establish courts inferior to Supreme Court
- Declare war
- Raise and support armies
- Make all laws “necessary and proper” to carry out responsibilities

Powers Denied

- Tax state exports
- Change state boundaries
- Violate the Bill of Rights

Concurrent Powers

- Levy and collect taxes
- Borrow money
- Make and enforce laws
- Establish courts
- Charter banks and corporations
- Take property for public purpose with just compensations (eminent domain)

State Government

Reserved Powers

- Regulate intrastate commerce
- Conduct elections
- Provide for public health, safety, welfare, and morals
- Establish local governments
- Maintain militia (National Guard)
- Ratify amendments to the Constitution

Powers Denied

- Tax imports and exports
- Coin money
- Enter into treaties
- Impair obligations of contracts
- Abridge the privileges or immunities of citizens or deny due process and equal protection of the laws

(Figure 2) Constitutional powers and responsibilities are divided between the U.S. federal and state governments.

The two levels of government also hold some of the same powers, called concurrent powers.

2b. Limits on State Government Powers

The states are also constrained by the Constitution. Article I, Section 10, prohibits the states from entering into treaties with other countries, coining money, and levying taxes on imports and exports. Like the federal government, the states cannot violate personal freedoms by suspending the writ of habeas corpus, passing bills of attainder, or enacting ex post facto laws. Furthermore, the Fourteenth Amendment, ratified in 1868, prohibits the states from denying citizens the rights to which they are entitled by the Constitution, due process of law, or the equal protection of the laws. Lastly, three civil rights amendments—the Fifteenth, Nineteenth, and Twenty-Sixth—prevent both the states and the federal government from abridging citizens’ right to vote based on race, sex, and age. This topic remains controversial because all the states have not always ensured equal protection.

You will learn much more about these amendments later in the course.

2c. Supremacy Clause

The supremacy clause in Article VI of the Constitution regulates relationships between the federal and state governments by declaring that the Constitution and federal law are the supreme law of the land. This means that if a state law overlaps with a federal law, the national government’s constitutional authority prevails. The intent of the supremacy clause is not to subordinate the states to the federal government. Rather, it affirms that one body of laws binds the country. In fact, all national and state government officials are bound by oath to uphold the Constitution regardless of the offices they hold. However, enforcement of the supremacy clause is not always that simple.

IN CONTEXT

In the case of marijuana use, which the federal government defines to be illegal, thirty-six states and the District of Columbia have nevertheless established medical marijuana laws, while others have decriminalized its recreational use, and fifteen states have completely legalized it as of 2022. The

federal government could choose to act in this area. Congress could make use of the supremacy clause and pass a law that decriminalizes marijuana in states. This would make marijuana legal in states where it is currently illegal. Alternatively, the president could also order the Bureau of Alcohol, Tobacco, and Firearms to arrest those dealing with marijuana, even in states where it has been legalized. Finally, the Supreme Court could declare the state laws legalizing marijuana unconstitutional.

2d. Relations Between the States

Various constitutional provisions govern state-to-state relations. Article IV, Section 1, referred to as the **full faith and credit clause**, or the comity clause, requires the states to accept court decisions, public acts, and contracts of other states. Thus, an adoption certificate or driver's license issued in one state is valid in any other state. The movement for same-sex marriage has put the full faith and credit clause to the test in recent decades.

IN CONTEXT

In light of *Baehr v. Lewin*, a 1993 ruling in which the Hawaii Supreme Court asserted that the state's ban on same-sex marriage was unconstitutional, a number of states became worried that they would be required to recognize those marriage certificates. To address this concern, Congress passed, and President Clinton signed, the Defense of Marriage Act (DOMA) in 1996. The law declared that "No state (or other political subdivision within the United States) need recognize a marriage between persons of the same sex, even if the marriage was concluded or recognized in another state." The law also barred federal benefits for same-sex partners.

DOMA clearly defined the issue as one that fell within the jurisdiction of states. This led many states to take up the policy issue of same-sex marriage. Scores of states considered legislation and ballot initiatives on the question. In 2013, the U.S. Supreme Court in *United States v. Windsor* struck down the part of DOMA that outlawed federal benefits. Then, in 2015, the *Obergefell v. Hodges* case had a sweeping effect when the Supreme Court clearly identified a constitutional right to same-sex marriage based on the Fourteenth Amendment.

The privileges and immunities clause of Article IV asserts that states are prohibited from discriminating against out-of-staters by denying them guarantees such as access to courts, legal protection, property rights, and travel rights. The clause has not been interpreted to mean that there cannot be any difference in the way a state treats residents and non-residents. For example, individuals cannot vote in a state in which they do not reside, tuition at state universities is higher for out-of-state residents, and, in some cases, individuals who have recently become residents of a state must wait a certain amount of time to be eligible for social welfare benefits. Another constitutional provision prohibits states from establishing trade restrictions on goods produced in other states. However, a state can tax out-of-state goods sold within its borders as long as state-made goods are taxed at the same level.



TERMS TO KNOW

Elastic Clause

Another name for the necessary and proper clause.

Commerce Clause

The clause in the U.S. Constitution that enumerates the federal government's power "to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes."

Concurrent Powers

Shared and overlapping powers between the national government and the states.

Full faith and credit clause (or comity clause)

A provision in Article IV, Section 1, of the Constitution that requires the states to accept court decisions, public acts, and contracts of other states.



SUMMARY

In this lesson, you learned about **federalism and other systems of government**. Specifically, you discovered that in unitary systems, the subnational governments derive their authority from the national government, and in a confederal system the national government derives its authority from the states, or subnational governments. You then explored **how power is divided in a federal system** in which the national and state governments operate relatively independently. You learned about the enumerated powers that the federal government holds, and the reserved powers that states hold. You also discovered that the full-faith and credit clause guide the relationship between states.



TERMS TO KNOW

Commerce Clause

The clause in the U.S. Constitution that enumerates the federal government's power "to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes."

Concurrent Powers

Shared and overlapping powers between the national government and the states.

Confederation

A system of government that is decentralized, in which the central government's ability to act depends on the consent of the subnational governments.

Elastic Clause

Another name for the necessary and proper clause.

Federalism

A system of government with two relatively independent levels, each with the capacity to act directly on behalf of the people.

Early Interpretations of Federalism

by Sophia



WHAT'S COVERED

In this lesson, you will learn about key Supreme Court cases that shaped the nature of the American federal system and helped define the scope of the power of the national government, as the growing power of the national government threatened the institution of slavery in the years leading up to the Civil War. Specifically, this lesson covers:

1. The Struggle Between National and State Power

The Constitution sketches a federal framework that aims to balance the powers of the state and national governments and protect the rights of individuals. However, this has not kept the state and national governments from trying to expand their powers at times. The Constitution created a flexible framework that is constantly being challenged, interpreted, and reinterpreted. Due to economic developments, wars, and historical events, the nature of this relationship has changed over time in a way that empowered the national government.

In this tutorial, we will look at early Supreme Court rulings that established the basis for the expansion of national power in the years leading up to the Civil War.

1a. *McCulloch v. Maryland* Establishes Implied Powers

One of the first battles for power between the states and the national government was over whether the federal government had the right to establish a national bank. As George Washington's secretary of the treasury from 1789 to 1795, Alexander Hamilton championed a national bank that would foster economic development, print and circulate paper money, and provide loans to the government. Congress agreed to establish one and provided the bank with a 20-year charter that expired in 1811 after the renewal of its charter was blocked.

The financial distress caused by the War of 1812 convinced Congress and then-president James Madison to strengthen the country's fragile financial system by creating the Second Bank of the United States in 1816. Many states rejected the Second Bank, arguing that the national government was infringing upon the states' constitutional jurisdiction.

A political showdown between the state of Maryland and the national government occurred when James McCulloch, an agent for the Baltimore branch of the Second Bank, refused to pay a tax that Maryland had imposed on all out-of-state chartered banks, which included the Second Bank.

The standoff raised two constitutional questions: Did Congress have the authority to charter a national bank? Were states allowed to tax federal property?

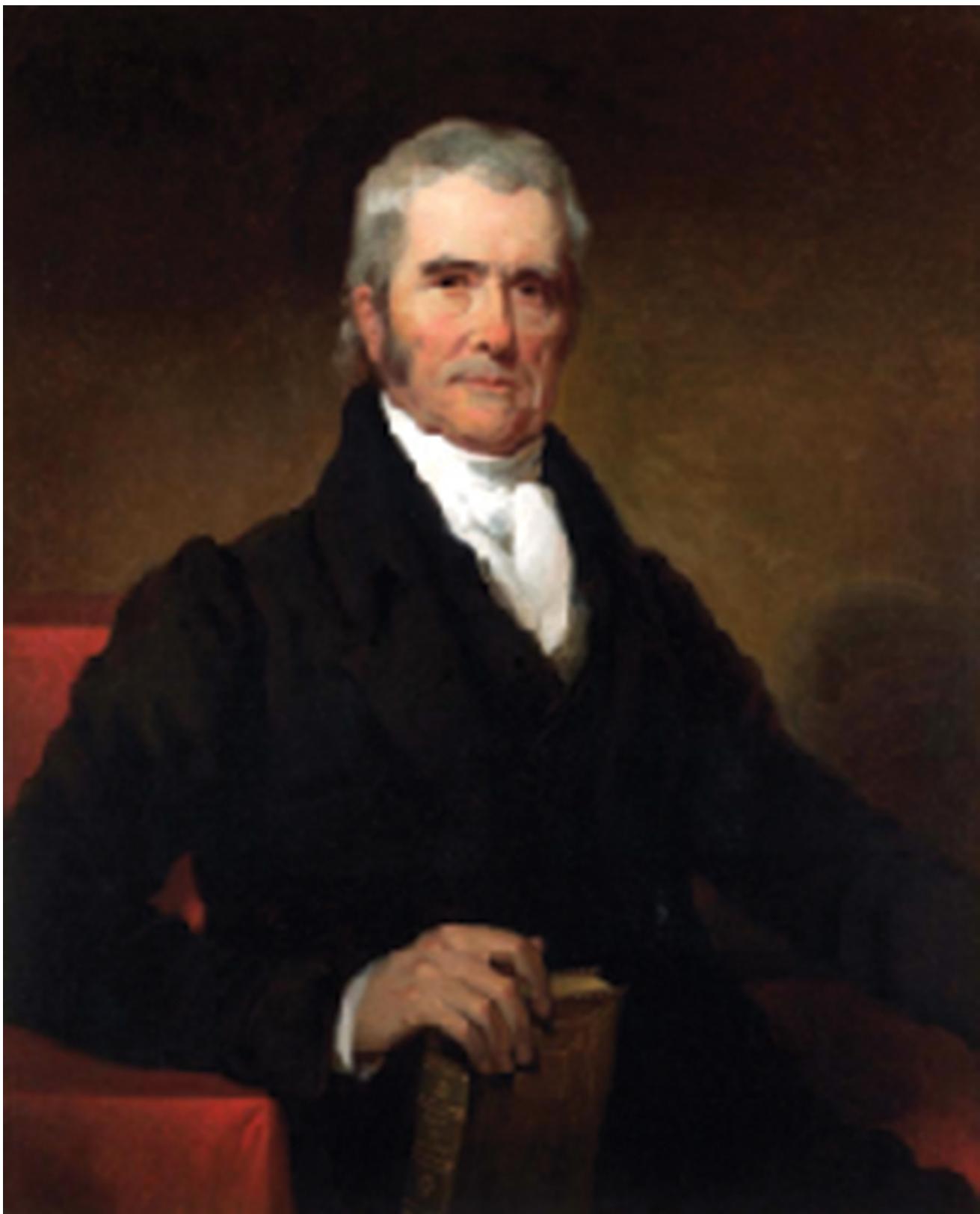


EVENTS TO KNOW

McCulloch v. Maryland (1819)

The standoff between Maryland and the national government made its way to the Supreme Court as *McCulloch v. Maryland*. In the court's ruling on the case, Chief Justice John Marshall (Figure 1) argued that Congress could create a national bank, even though the Constitution did not expressly authorize it.

To justify this ruling, the Supreme Court referenced the necessary and proper clause of Article I, Section 8, which states that Congress has the authority “To make all Laws which shall be necessary and proper for carrying into Execution the foregoing [enumerated] Powers.” The Supreme Court asserted that Congress could establish “all means which are appropriate” to fulfill “the legitimate ends” of the Constitution. In other words, the bank was an appropriate instrument that enabled the national government to carry out several of its enumerated powers, such as regulating interstate commerce, collecting taxes, and borrowing money.



(Figure 1) Chief Justice John Marshall, shown here in a portrait by Henry Inman, was arguably best known for the principle of judicial review he established in *Marbury v. Madison* (1803), which reinforced the influence and independence of the judiciary branch of the U.S. government.

This ruling established the doctrine of **implied powers**, authority that is not explicitly stated in the Constitution but is granted based on stated Constitutional power. These powers grant Congress a vast source of discretionary power to achieve its constitutional responsibilities.

The Supreme Court also sided with the federal government on the issue of whether states could tax federal property. Under the supremacy clause of Article VI, national laws overrule conflicting state laws. As the court observed, “the government of the Union, though limited in its powers, is supreme within its sphere of action and its laws, when made in pursuance of the constitution, form the supreme law of the land.” Maryland’s action violated the supremacy clause, because “the power to tax is the power to destroy.” This second ruling established the principle of national supremacy, which prohibits states from meddling in the lawful activities of the national government.



TERM TO KNOW

Implied Powers

Authority that is not explicitly stated in the Constitution but is granted based on stated Constitutional power.

1b. *Gibbons v. Ogden* and the Commerce Clause

Defining the scope of national power was the subject of another landmark Supreme Court decision in 1824. Aaron Ogden, who had obtained an exclusive license from New York State to operate steamboat ferries between New York City and New Jersey, sued Thomas Gibbons, who was operating ferries along the same route under a coasting license issued by the federal government. Ogden won in New York state court, which issued an injunction (an order to start or stop an action) against Gibbons, and ruled he could no longer operate his ferries. Gibbons appealed the decision to the federal court system.



EVENTS TO KNOW

Gibbons v. Ogden (1824)

Gibbons v. Ogden raised the question of whether the federal government or the state government had the right to issue licenses for a business that crossed from one state to another. To determine this, the Supreme Court had to interpret the commerce clause of Article I, Section 8, which states that Congress has the authority “to regulate commerce with foreign nations, and among the several states, and with the Indian tribes.” Essentially, the Court had to determine whether the federal government had the sole authority to regulate the licensing of steamboats operating between New York and New Jersey.

Chief Justice Marshall delivered a two-part ruling in favor of Gibbons that strengthened the power of the national government. First, interstate commerce was interpreted broadly to mean “commercial intercourse” among states, thus allowing Congress to regulate navigation. This meant that federal authority extended to any business doing commerce between two states.

Second, because the federal Licensing Act of 1793, which regulated coastal commerce, was a constitutional exercise of Congress’s authority under the commerce clause, federal law trumped the New York State license-monopoly law that had granted Ogden an exclusive steamboat operating license. As Marshall pointed out, “the acts of New York must yield to the law of Congress.” The commerce clause would become a vehicle for the expansion of national power.

1c. Nullification, *Dred Scott v. Sandford*, and the Civil War

Several states resisted the Supreme Court’s expansion of federal power. When President John Adams signed the Sedition Act in 1798, which made it a crime to speak openly against the government, the Kentucky and Virginia legislatures each passed resolutions declaring the act null, on the grounds that the state legislatures retained the discretion as to whether to follow federal laws. In effect, these state resolutions articulated the

doctrine of nullification—that states had the right to reject national laws they deemed unconstitutional.

A nullification crisis emerged in the 1830s over President Andrew Jackson's tariff acts of 1828 and 1832. Led by John Calhoun, President Jackson's vice president, some Americans argued that high tariffs on imported goods benefited northern manufacturing interests and harmed economies in the South. South Carolina passed an Ordinance of Nullification, declaring both of Jackson's tariff acts null and void and eventually threatened to leave the Union.

The federal government responded by enacting the Force Bill in 1833, authorizing President Jackson to use military force against states that challenged federal tariff laws. The prospect of military action, coupled with the passage of the Compromise Tariff Act of 1833 (which lowered tariffs over time), led South Carolina to end the nullification crisis.



EVENTS TO KNOW

Dred Scott v. Sandford(1857)

Another crisis, however, soon emerged over the issue of slavery. Dred Scott, an enslaved man who had been taken from Missouri to live in Illinois and the Wisconsin territory, where slavery was illegal, sued for his freedom. In 1857 in *Dred Scott v. Sandford*, the Supreme Court not only ruled against Scott but also declared that the national government lacked the authority to ban slavery in new territories that were being incorporated into the United States as a result of western expansion. This decision granted states more power, and set into motion the events that led to the Civil War.

The election of President Abraham Lincoln in 1860 spurred eleven southern states to secede from the United States because they believed the new president would challenge the institution of slavery. What was initially a conflict to preserve the Union became a conflict to end slavery when Lincoln issued the Emancipation Proclamation in 1863, which freed all enslaved people in the rebellious states.

The defeat of the South had a huge impact on the balance of power between states and the national government in two important ways. First, the Union victory put an end to the right of states to secede and challenged legitimate national laws. Second, Congress imposed several conditions for readmitting former Confederate states into the Union that expanded the authority of the federal government.

After the Civil War, the power balance shifted toward the national government, a movement that had begun several decades before with *McCulloch v. Maryland*(1819) and *Gibbons v. Odgen*(1824).

The period between 1819 and the 1860s demonstrated that the national government sought to establish its role within the newly created federal design, which in turn often provoked the states to resist as they sought to protect their interests. With the exception of the Civil War, the Supreme Court settled the power struggles between the states and the national government. From a historical perspective, the national supremacy principle introduced during this period did not so much narrow the states' scope of constitutional authority, as it restricted their encroachment on national powers.



SUMMARY

In this lesson, you learned that the struggle between national and state power emerged soon after the birth of the nation, when *McCulloch v. Maryland* established implied powers through the

Supreme Court's interpretation of the necessary and proper clause. You discovered that *Gibbons v. Ogden* and the Commerce Clause provided an additional mechanism for the national government to expand its powers. Finally, you explored the connection between nullification, *Dred Scott v. Sandford*, and the Civil War, and how the conflict between the North and South over slavery ultimately solidified the supremacy of the federal government.

Source: THIS CONTENT AND SUPPLEMENTAL MATERIAL HAS BEEN ADAPTED FROM OPENSTAX "AMERICAN GOVERNMENT 3E" ACCESS FOR FREE AT openstax.org/details/books/american-government-3e



TERMS TO KNOW

Commerce clause

A clause in the Constitution that gives Congress the power "to regulate commerce with foreign nations, and among the several states, and with the Indian tribes."

Implied Powers

Authority that is not explicitly stated in the Constitution but is granted based on stated Constitutional power.



EVENTS TO KNOW

Dred Scott v. Sandford

A Supreme Court case through which the Court established that the federal government did not have the right to ban slavery from new U.S. territories.

Gibbons v. Ogden

A Supreme Court case in which the Court asserted the right of the federal government to regulate interstate commerce, including maritime activity.

McCulloch v. Maryland

A Supreme Court case in which it was ruled that Congress could create a national bank even though the Constitution did not expressly authorize it.

Evolution of U.S. Federalism

by Sophia



WHAT'S COVERED

In this lesson, you will learn about how the industrial revolution changed the economic and social landscape of America and how it propelled a remarkable expansion of the power of the national government. You will discover that not all presidents agreed with this and learn about their efforts to return power to the states. You will also consider the impact of all these changes on where federalism stands today. Specifically, this lesson covers:

1. Eras of American Federalism

Despite the Constitution's stated division of power between the national government and the states, as well as early Supreme Court decisions that clarified the scope of national power, the nature of American federalism continues to evolve. Since the country's inception, the changing social, political, and economic landscape has shifted the balance of power in one direction or another.

Leading up to the present, two factors contributed to the evolution of federalism. First, the Supreme Court has often weighed in on the issue of state and national power, as it rules on cases that involve the states and national government. Second, as the United States evolved from an agricultural nation to one whose economy is based primarily on industrial capitalism, the federal system adapted to provide for the new expectations of the people.

1a. Dual Federalism

Following the Civil War, the rulings of the Supreme Court blocked attempts by both state and federal governments to expand their authority. As a result, the United States maintained a system known as **dual federalism**, in which the states and national government exercise exclusive authority in distinct spheres of jurisdiction. Dual federalism is often compared to a layer cake. Like the layers of a cake, the levels of government do not blend with one another but instead are clearly defined.

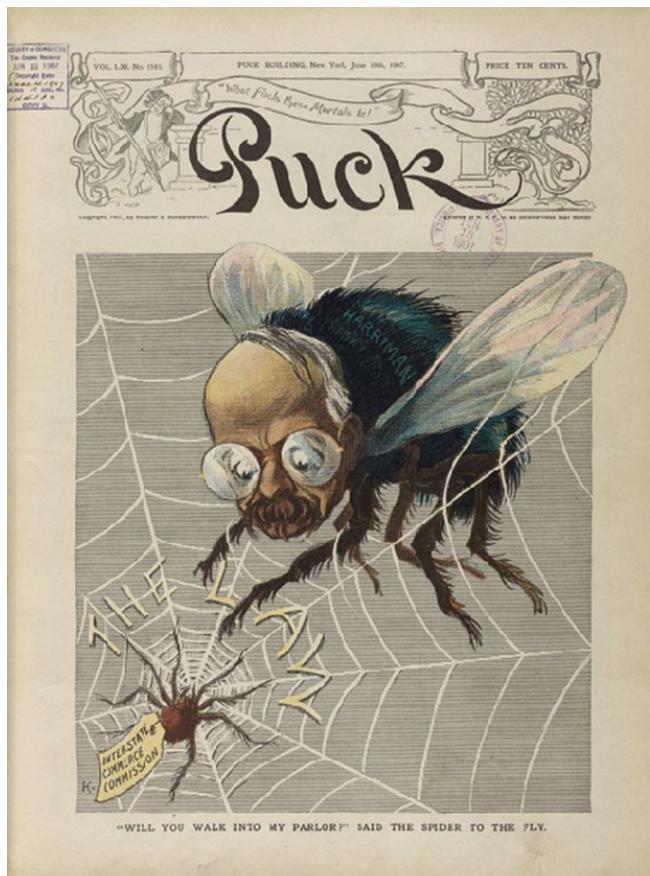
As the American economy grew more industrialized and complex, the U.S. government attempted to intervene for the benefit of consumers and small businesses. In the late nineteenth century, companies began to grow and establish monopolies. One company might control an entire industry, or they might conspire with other large companies to control the market for an entire industry together. These monopolies could then control prices for their products: raising the price to gain more profit or lowering the price so that smaller companies in the industry could not afford to stay in business.

IN CONTEXT

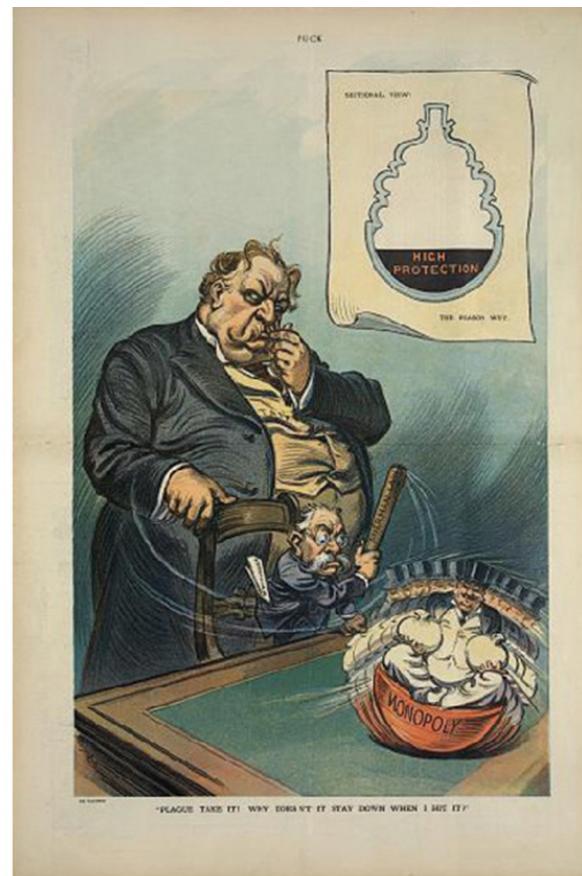
Monopolies, and trusts consisting of several large industries, are still a problem today. In 2020, the Department of Justice filed an antitrust lawsuit against tech giant Google, after Google signed a deal with another tech giant Apple so that Apple's iPhone Safari browser would use the Google search

engine. In this way, Google gained more control of the search engine market, which it can then use to control the price of online advertising, wipe out competition from businesses that compete with Google in other markets, and generally control the flow of information.

The national government wanted to protect small businesses and consumers. To restrict these anti-competitive practices in the railroad industry, Congress passed the Interstate Commerce Act in 1887. This act created the Interstate Commerce Commission to monitor anti-competitive practices. Three years later, national regulatory capacity was broadened by the Sherman Antitrust Act of 1890, which made it illegal to monopolize or attempt to monopolize and conspire in restraining commerce (Figure 1).



(a)



(b)

(Figure 1) *Puck*, a humor magazine published from 1871 to 1918, satirized political issues of the day, such as federal attempts to regulate commerce and prevent monopolies. (a) “Will you walk into my parlor?” said the spider to the fly” by Udo Keppler depicts a spider labeled “Interstate Commerce Commission” capturing a large fly in a web labeled “The Law.” (b) “Plague take it! Why doesn’t it stay down when I hit it?”, also drawn by Keppler, shows President William Howard Taft and his attorney general, George W. Wickesham, trying to beat a “Monopoly” into submission with a stick labeled “Sherman Law.”

In 1895, in *United States v. E. C. Knight* the Supreme Court ruled that the national government lacked the authority to regulate manufacturing. The case came about when the government, using its regulatory power under the Sherman Act, attempted to override American Sugar's purchase of four sugar refineries, which would give the company a large share of the industry. Distinguishing between commerce among states and the production of goods, the court argued that the national government's regulatory authority applied only to commercial activities. If manufacturing activities fell under the commerce clause of the Constitution, then “comparatively little of business operations would be left for state control,” the court argued.

This decision slowed the expansion of federal authority made possible through the commerce clause. The ruling was reversed in 1937, in *N.L.R.B. v. Jones & Laughlin Steel Corp.*, when the Supreme Court ruled that manufacturing could be subject to federal regulation if it related to business dealings across states.



TERM TO KNOW

Dual federalism

When the states and national government exercise exclusive authority in distinct spheres of jurisdiction.

1b. Cooperative Federalism

Industrialization brought about economic changes that raised questions about the balance of power between state and national government. Industrialization also brought about dramatic social and geographic changes, such as the creation of large urban populations. As the economy shifted, and the needs of the people changed over time, so did the relationship between the national government and the states. In the early twentieth century, a new model of federalism emerged, called cooperative federalism.

1b.i. The Great Depression

The first event to bring about this major shift in federalism was the Great Depression.



EVENTS TO KNOW

The Great Depression (1929-1939)

The Great Depression of the 1930s brought economic hardships the nation had never witnessed before (Figure 2). Between 1929 and 1933, the national unemployment rate reached 25 percent, industrial output dropped by half, stock market assets lost more than half their value, thousands of banks went out of business, and the **gross domestic product** shrunk by one-quarter. Given the magnitude of the economic depression, there was pressure on the national government to coordinate a robust national response with the states.



(Figure 2) A line outside a Chicago soup kitchen in 1931, in the midst of the Great Depression. The sign above reads "Free Soup, Coffee, and Doughnuts for the Unemployed."

Cooperative federalism was born of this necessity, and lasted well into the twentieth century, as the national and state governments each found it beneficial. Under this model, both levels of government coordinated their actions to solve national problems.

In contrast to dual federalism, cooperative federalism erodes the jurisdictional boundaries between the states and national government, so that they can both carry out policies in the same areas, such as social welfare and education. Whereas dual federalism is compared to a layer cake, cooperative federalism is often compared to a marble cake, with a blending of layers of cake—or government (Figure 3). The era of cooperative federalism contributed to the gradual expansion of national authority into the jurisdictional domain of the states, as well as to the expansion of the national government’s power in concurrent policy areas.

DUAL FEDERALISM Layered Cake Federalism



Programs and authority are clearly divided among the national, state, and local governments.

COOPERATIVE FEDERALISM Marble Cake Federalism



Programs and authority are mixed among the national, state, and local governments.

(Figure 3) Morton Grodzins coined the expression “marble-cake federalism” in the 1950s to explain the evolution of federalism in the United States

President Franklin D. Roosevelt proposed a series of programs, known as the New Deal, as a means to tackle the Great Depression.



EVENTS TO KNOW

New Deal (1930s)

New Deal programs sought to bring immediate economic relief to Americans and employ Americans through building new infrastructure, such as hydroelectric dams, roads, bridges, buildings, and parks. They also reformed labor practices, established a minimum wage, limited work hours, outlawed many forms of child labor, and supported unions.

New Deal legislation ran afoul of the dual-federalism mindset of the justices on the Supreme Court in the 1930s. The court struck down key programs of the New Deal on the grounds that the federal government was operating in matters that were within the purview of the states. The court’s position angered the president, leading him in 1937 to propose a court-packing plan that would add one new Supreme Court justice for each one over the age of seventy, thus allowing the president to make a maximum of six new appointments. Before Congress took action on the proposal, the Supreme Court began leaning in support of the New Deal.

In *National Labor Relations Board (NLRB) v. Jones and Laughlin Steel*, for instance, the Supreme Court ruled the National Labor Relations Act of 1935 constitutional, asserting that Congress can use its authority under the commerce clause to regulate both manufacturing activities and labor-management relations.

The New Deal changed the relationship Americans had with the national government. Before the Great Depression, the government offered little in terms of financial aid, social benefits, and economic rights. After the New Deal, it provided old-age pensions (Social Security), unemployment insurance, agricultural subsidies,

protections for organizing in the workplace, and a variety of other public services, which were created during Roosevelt's administration. State and national governments had to work together to deliver these programs.

1b.ii. The Great Society

In the 1960s, President Lyndon Johnson's administration further expanded the national government's role in society through a host of new programs (Table 1). These programs strengthened the U.S. social safety net and provided more benefits to the needy. They also poured resources into education, usually a policy area reserved for states, and advanced civil rights (Figure 4).

Table 1 Great Society Programs

Policy Area	Programs
Health	Medicaid (which provides medical assistance to the indigent), Medicare (which provides health insurance to the elderly and some people with disabilities), and school nutrition programs were created.
Education	The Elementary and Secondary Education Act (1965), the Higher Education Act (1965), and the Head Start preschool program (1965) were established to expand educational opportunities and equality.
Consumer Protection	The Clean Air Act (1965), the Highway Safety Act (1966), and the Fair Packaging and Labeling Act (1966) promoted environmental and consumer protection.
Housing	Laws were passed to promote urban renewal, public housing development, and affordable housing.
Civil Rights	In addition to these Great Society programs, the Civil Rights Act (1964) and the Voting Rights Act (1965) gave the federal government effective tools to promote equality in civil rights across the country.



(a)



(b)

(Figure 4) (a) Lady Bird Johnson, the first lady, reads to students enrolled in Head Start at the Kemper School in Washington, DC, on March 19, 1966. (b) President Obama visits a Head Start classroom in Lawrence, Kansas, on January 22, 2015.

While the era of cooperative federalism witnessed a broadening of federal powers in concurrent and state policy domains, it is also an era of deepening coordination between the states and the federal government in

Washington.

Nowhere is this clearer than with respect to the social welfare and social insurance programs created during the New Deal and Great Society eras, most of which are jointly administered and funded by both state and federal authorities. The Social Security Act of 1935 gave state and local officials wide discretion over eligibility and benefit levels. It created federal subsidies for state-administered programs for the elderly, people with disabilities, dependent mothers, and children. The unemployment insurance program, also created by the Social Security Act, requires states to provide jobless benefits. However, it allows the states significant latitude to decide the level of tax to impose on businesses in order to fund the program, as well as the duration and replacement rate of unemployment benefits. A similar multilevel division of labor governs Medicaid and Children's Health Insurance.

The era of cooperative federalism left two lasting attributes of federalism in the United States. First, a nationalization of politics emerged to address national problems such as marketplace inefficiencies, poverty, and social and political inequality. The nationalization process expanded the size of the federal administrative apparatus and increased the flow of federal grants to state and local authorities, which helped offset the financial costs of maintaining a host of New Deal- and Great Society-era programs. The second lasting attribute is the flexibility that states and local authorities were given in the implementation of federal social welfare programs. One consequence of administrative flexibility is cross-state differences in the levels of benefits and coverage.



TERMS TO KNOW

Gross domestic product

Total value of goods and services produced by a nation in a single year.

Cooperative federalism

Both levels of government coordinate their actions to solve national problems.

1c. New Federalism

During the administrations of Presidents Richard Nixon (1969–1974) and Ronald Reagan (1981–1989), attempts were made to reverse the expansion of federal authority—that is, to restore states' prominence in policy areas into which the federal government had moved.

New federalism is the term used to describe the general attempt to decentralize policies, with the goal of enhancing administrative efficiency and reducing overall public spending. During Nixon's administration, **general revenue sharing** programs were created that distributed funds to the state and local governments with minimal restrictions on how the money was spent. Reagan furthered these attempts to reduce the power of the national government. He consolidated several federal grant programs related to social welfare and reformulated them, which gave state and local administrators greater discretion in using federal funds. However, Reagan met with mixed success, as his administration encountered opposition from Democrats in Congress, moderate Republicans, and interest groups, which prevented him from making further advances on that front.

Several Supreme Court rulings also promoted new federalism by limiting the scope of the national government's power, especially under the commerce clause. For example, in *United States v. Lopez*, the court struck down the Gun-Free School Zones Act of 1990, which banned gun possession in school zones. It argued that the regulation in question did not "substantively affect interstate commerce." The ruling ended a nearly sixty-year period in which the court had used a broad interpretation of the commerce clause, which by the 1960s allowed it to regulate numerous local commercial activities.



TERMS TO KNOW

New Federalism

The idea that the decentralization of policies enhances administrative efficiency, reduces overall public spending, and improves policy outcomes.

General Revenue Sharing

Programs created to distribute funds to the state and local governments with minimal restrictions on how the money is spent.

1d. Competitive Federalism

Many would say that in the years since the 9/11 attacks, power has swung back in the direction of centralized federal authority.



EVENTS TO KNOW

9/11 Attacks (2001)

On September 11, 2001, nineteen radical Islamic terrorists, from a group called al Qaeda, hijacked four commercial airlines. Two of the airlines flew into the Twin Towers in New York City, and a third crashed into the Pentagon in Washington D.C. The fourth airline crashed in Pennsylvania after the passengers on board, after hearing about the Twin Towers, tried to regain control of the craft. This event, known as the 9/11 attacks, resulted in the death of almost 3,000 people.

The creation of the Department of Homeland Security and the Transportation Security Administration demonstrates a strengthening of federal authority over disaster response and airport security. Broad new federal policies and mandates have also been carried out in the form of the **Affordable Care Act** and with various responses to the COVID-19 pandemic.

Certain functions clearly belong to the federal government, the state governments, and local governments. National security is a federal matter, the issuance of licenses is a state matter, and garbage collection is a local matter. Yet, local, state, and federal governments increasingly compete for control of some policy issues that once fell under the purview of only one of them. This dynamic is sometimes called **competitive federalism**.



WATCH

Please watch this video describing how federalism has changed over time.

Competitive federalism can be illustrated by the issues of immigration and marriage equality. Immigration and marriage equality were not the subjects of much contention between states and the federal government until recent decades. Before that, it was understood that the federal government handled immigration, while states determined the legality of marriage, whether between people of different races or the same sex. This understanding of exclusive responsibilities has changed; today both levels of government play roles in these two policy areas.

1d.i. Immigration

Since the late 1990s, states have asserted a right to make immigration policy on the grounds that they are enforcing, not supplanting, the nation's immigration laws. Some are exercising their jurisdictional authority by restricting undocumented immigrants' access to education, health care, and welfare benefits, areas that fall under the states' responsibilities. In 2005, twenty-five states enacted a total of thirty-nine laws related to immigration. By 2014, forty-three states and Washington, DC had passed a total of 288 immigration-related

laws and resolutions. In 2020, thirty-two different states enacted a total of 206 additional measures, including many related to COVID-19.

Arizona has been one of the states challenging federal authority over immigration. In 2010, it passed Senate Bill 1070, which sought to make it so difficult for undocumented immigrants to live in the state that they would return to their native country. The federal government filed suit to block the Arizona law, contending that it conflicted with federal immigration laws. Meanwhile, people across the United States protested for and against it (Figure 5).



(a)



(b)

(Figure 5) (a) A group in St. Paul, Minnesota, protests against immigration on November 14, 2009. (b) Following the adoption of Senate Bill 1070 in Arizona, which took a tough stance on undocumented immigration, supporters of immigration reform demonstrated across the country in opposition to the bill, including in Lafayette Park, located across the street from the White House in Washington, DC.

Credit a: Modification of work by "Fibonacci Blue"/Flickr; Credit b: Modification of work by Nevele Otseog

In 2012, in *Arizona v. United States*, the Supreme Court affirmed federal supremacy on immigration. The court struck down three of the four central provisions of the Arizona law.

1d.ii. Marriage

Historically, marriage has fallen under the domain of states. In 1993, the Hawaii Supreme Court ruled that the refusal of the state to marry same-sex couples violated the states' constitutions. In response, the federal government passed the Defense of Marriage Act (DOMA) in 1996, stepping into this policy issue. Whereas DOMA allowed states to choose whether to recognize same-sex marriages, it also defined marriage as a union between a man and a woman, which meant that same-sex couples were denied various federal provisions and benefits—such as the right to file joint tax returns and to receive Social Security survivor benefits. By 2006, two years after Massachusetts became the first state to recognize marriage equality, twenty-seven states had passed constitutional bans on same-sex marriage. In *United States v. Windsor* (2012), the Supreme Court ruled that the federal government had no authority to define marriage.

However, public opinion shifted quickly. In 2015, same-sex marriage was recognized in thirty-six states, plus Washington, DC, up from seventeen in 2013. Two years later, the Supreme Court ruled in *Obergefell v. Hodges* that states cannot discriminate between same-sex and different-sex couples based on the equal protection clause of the Fourteenth Amendment.

As the immigration and marriage equality examples illustrate, constitutional disputes have arisen as states and

the federal government have sought to reposition themselves on certain policy issues and as the federal courts weigh in on the disputes.



TERM TO KNOW

Competitive Federalism

When functions belong to the federal government, the state governments, and local governments.



SUMMARY

In this lesson, you learned about the **eras of American federalism**. You explored how **dual federalism**, like a layer cake, preserved separate spheres in which each level of government operated, and how **cooperative federalism** more closely resembled a marble cake in which the levels of government cooperated to achieve goals in shared policy areas. You discovered how this new form of federalism arose when the fight against poverty, which plagued the United States after the industrial revolution, led to a sharp expansion in the power of the national government. You explored how **new federalism** sought to transfer power back to the states, and how today state and national governments engage in **competitive federalism**, often competing to exercise authority in spheres that previously one of them had controlled.

Source: THIS CONTENT AND SUPPLEMENTAL MATERIAL HAS BEEN ADAPTED FROM OPENSTAX "AMERICAN GOVERNMENT 3E" ACCESS FOR FREE AT openstax.org/details/books/american-government-3e



TERMS TO KNOW

Competitive Federalism

When functions belong to the federal government, the state governments, and local governments.

Cooperative Federalism

Both levels of government coordinate their actions to solve national problems.

Dual Federalism

The states and national government exercise exclusive authority in distinct spheres of jurisdiction.

General Revenue Sharing

Programs created to distribute funds to the state and local governments with minimal restrictions on how the money is spent.

Gross Domestic Product

Total value of goods and services produced by a nation in a single year.

New Federalism

The idea that the decentralization of policies enhances administrative efficiency, reduces overall public spending, and improves policy outcomes.

**9/11 Attacks (2001)**

Terrorist attacks on the Twin Towers by Islamic extremists that claimed the lives of almost 3,000 people in New York City.

Affordable Care Act (2010)

A landmark health care reform law enacted in 2010 with the goal of making health insurance affordable to more people.

New Deal (1930s)

A series of new government programs aimed at supporting workers and the economy during the great depression.

The Great Depression (1929-1939)

A period of exceptional economic hardship in the U.S. and abroad, characterized by high unemployment and shrinking gross domestic product.

Federalism in Action

by Sophia



WHAT'S COVERED

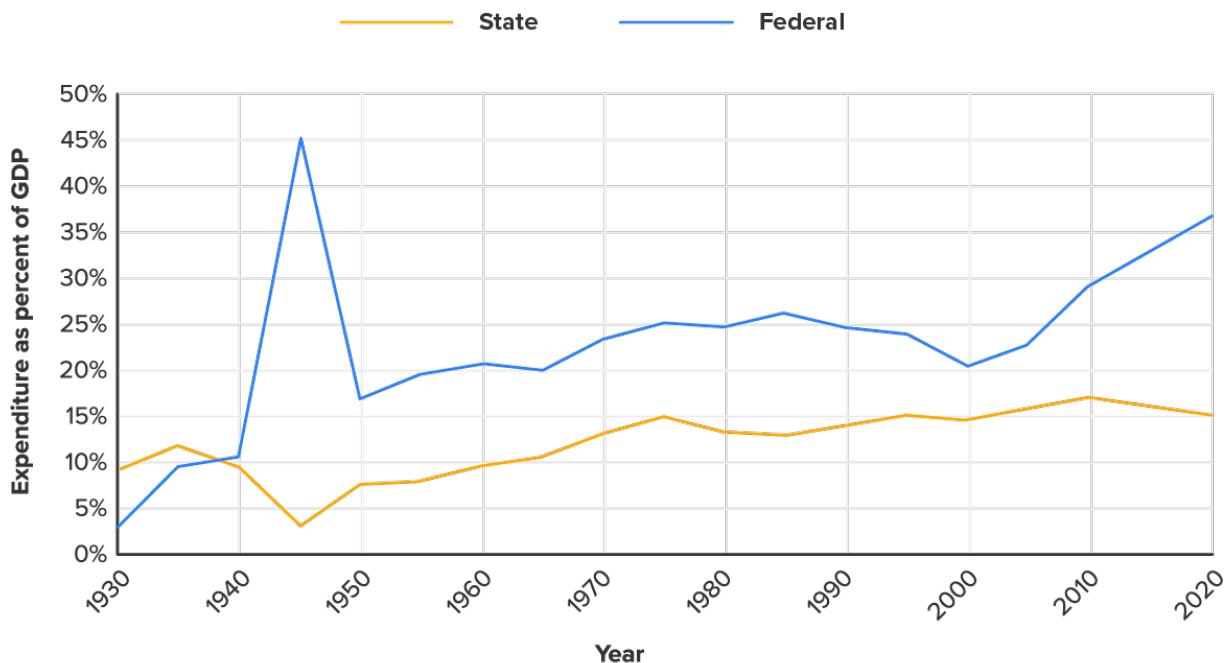
In this lesson, you will learn how the federal government works with states to achieve its goals, sometimes through incentives and sometimes through threats. What are these methods, do they work, and are they fair? Specifically, this lesson covers:

1. Federal Spending

Throughout U.S. history, the national and state governments have battled for dominance over the implementation of public policy and the funding of important political programs. The administrations of President Franklin D. Roosevelt and President Lyndon B. Johnson created social safety net programs that greatly expanded the role of the national government. State and local governments became partners in their implementation, and they also came to rely on the financial support they received from the federal government in the form of program grants.

As the federal government's role in policy creation expanded, so did its level of spending. Spending by the federal government began to surpass that of state and local governments shortly after 1940 (Figure 1).

Federal Spending vs State and Local Spending



(Figure 1) After spiking during World War II, spending by the federal government has consistently exceeded that of state and local governments. Since 2000, the gap between federal and state spending has widened considerably, with upswings of federal spending during the Great Recession (2008–10) and as COVID-19 became the dominant policy issue in 2020.

Source: U.S. Bureau of Economic Analysis and Congressional Research Service

Growing financial resources gave the federal government increased power over state and local governments. Still, the national government's ability to achieve its objectives often requires the participation of state and local governments. Intergovernmental grants offer positive financial inducements to get states to work toward selected national goals. A grant is commonly likened to a "carrot" to the extent that it is designed to entice the recipient to do something. On the other hand, **unfunded mandates** impose federal requirements on state and local authorities. Mandates are typically backed by the threat of penalties for non-compliance, and they provide little to no compensation for the costs of implementation. Thus, given its coercive nature, a mandate is commonly likened to a "stick."

We will examine both the carrots and the sticks that the federal government offers to states.



TERMS TO KNOW

Unfunded Mandates

Federal laws and regulations that impose obligations on state and local governments, without fully compensating them for the administrative costs they incur.

2. Grants

The national government has used grants to influence state actions as far back as the Articles of

Confederation when it provided states with land grants. In the first half of the 1800s, land grants were the primary means by which the federal government supported the states. Millions of acres of federal land were donated to support road, railroad, bridge, and canal construction projects, all of which were instrumental in piecing together a national transportation system to facilitate migration, interstate commerce, postal mail service, and movement of military people and equipment. At the turn of the twentieth century, cash grants replaced land grants as the main form of federal intergovernmental transfers and have become a central part of modern federalism.

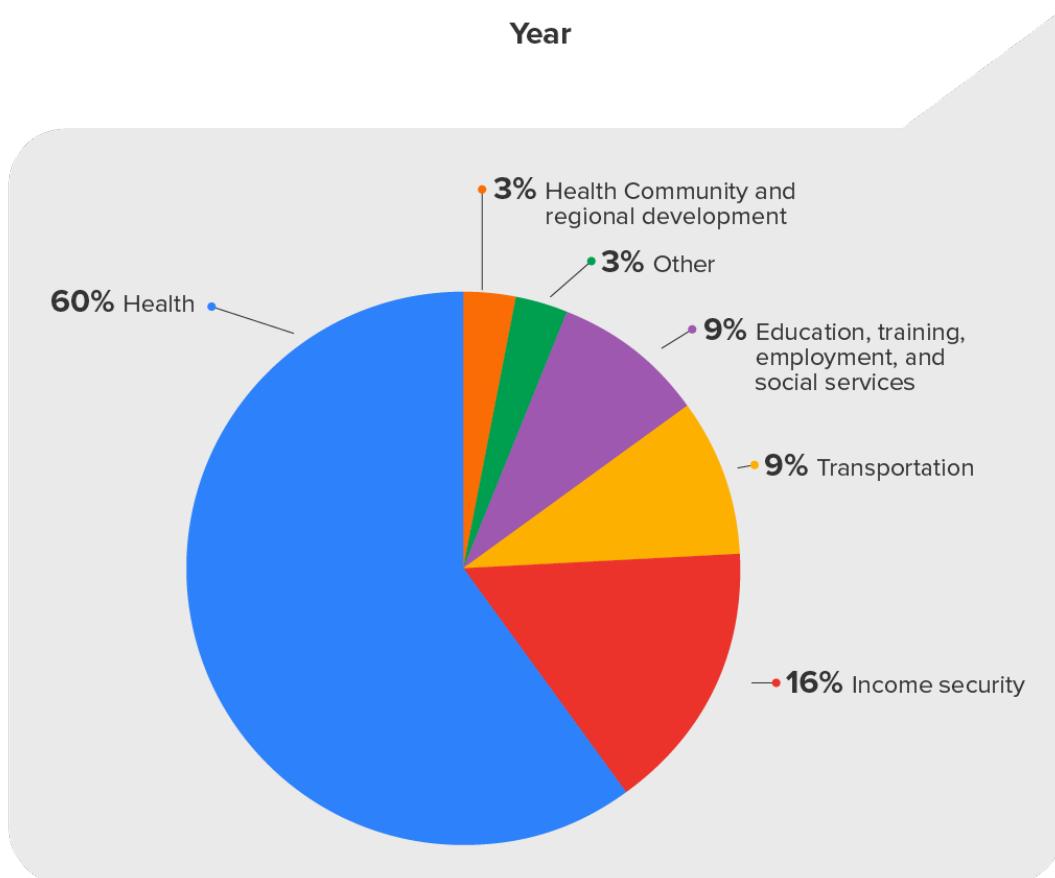
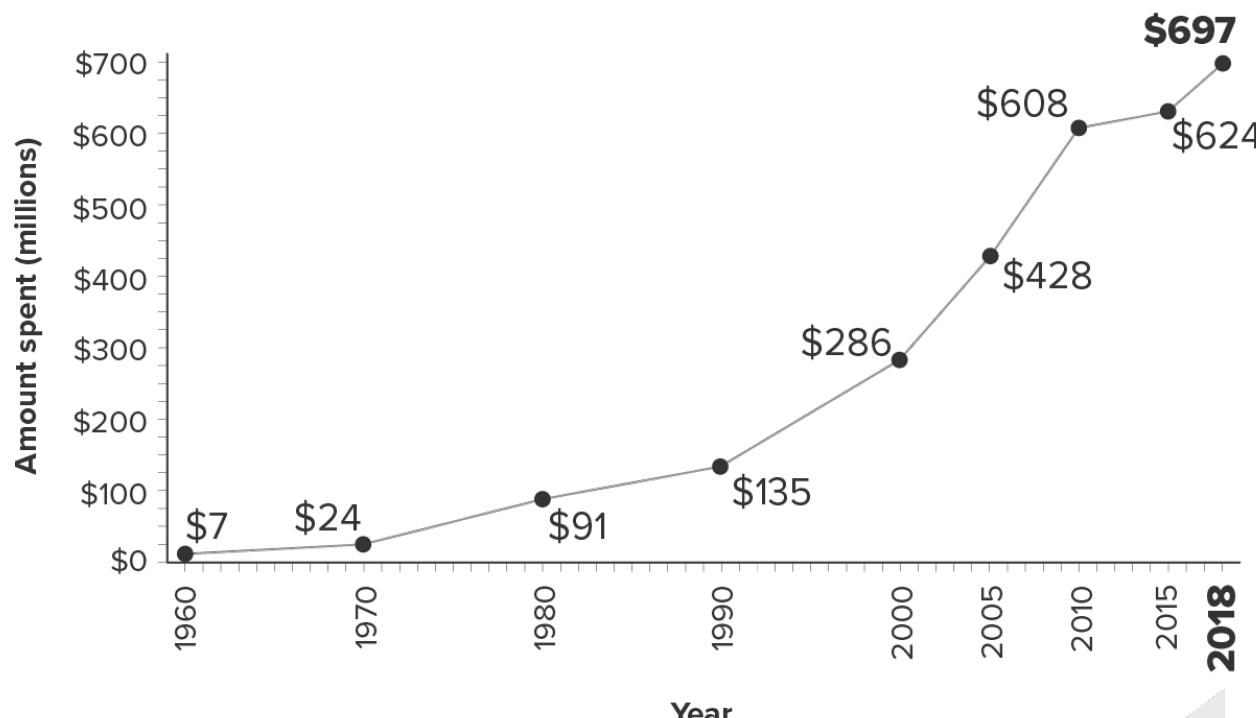
Federal cash grants do come with strings attached. The national government has an interest in seeing that public funds are used for policy activities that advance national objectives. **Categorical grants** are federal transfers of money to states that limit how states use funds. These grants are subject to strict administrative criteria that guide project selection, performance, and financial oversight, among other things. These grants also often require some commitment of matching funds. Medicaid and the food stamp program are examples of categorical grants.

Block grants come with less stringent federal conditions and provide the states more flexibility over how to spend grant funds. Examples of block grants include the Workforce Investment Act program, which provides state and local agencies money to help youths and adults obtain skill sets that will lead to better-paying jobs. Another example is the Surface Transportation Program, which helps state and local governments maintain and improve highways, bridges, tunnels, sidewalks, and bicycle paths.

Finally, recipients of general revenue sharing, begun by President Nixon, faced the least restrictions on the use of federal grants. From 1972 to 1986, when revenue sharing was abolished, upwards of \$85 billion of federal money was distributed to states, cities, counties, towns, and villages.

During the 1960s and 1970s, funding for federal grants grew significantly, as the graphic shows in Figure 2. Growth picked up again in the 1990s and 2000s. The increase since the 1990s is primarily due to the increase in federal grant money going to Medicaid. Federally funded healthcare programs jumped from \$43.8 billion in 1990 to \$320 billion in 2014. Health-related grant programs such as Medicaid and the Children's Health Insurance Program (CHIP) represent more than half of total federal grant expenses.

Federal Grants to State and Local Governments, 1960-2018



(Figure 2) Federal grants to state and local governments have steadily increased since the 1960s. The pie chart shows how federal grants are allocated among different functional categories today.

2a. Categorical Grant Use

The national government has greatly preferred using categorical grants to transfer funds to state and local

authorities because this type of grant gives them more control and discretion in how the money is spent.

Additionally, categorical grants are more popular than block grants, despite calls to decentralize public policy, because members of Congress who sponsor these grants can take credit for their positive outcomes, such as clean rivers, better-performing schools, healthier children, and a secure homeland. This helps them get re-elected.

Categorical grants also afford federal officials greater control over the success of the programs that the grants fund. A common criticism of block grants is that they lack mechanisms to hold state and local administrators accountable for outcomes.

Finally, once categorical grants have been established, vested interests in Congress and the federal bureaucracy seek to preserve them. The legislators who enact them and the federal agencies that implement them invest heavily in defending them, ensuring their continuation.

2b. Block Grant Use

Block grants, on the other hand, are favored by some for their cost-cutting effects. President Ronald Reagan's attempt to transfer power back to the states contributed to raising the number of block grants from six in 1981 to fourteen in 1989. In 1994, the Republican-controlled Congress passed legislation that called for block-granting Medicaid, which would have capped federal Medicaid spending. President Clinton vetoed the legislation.

However, in 1996, congressional efforts to convert Aid to Families with Dependent Children (AFDC) to a block grant succeeded. The Temporary Assistance for Needy Families (TANF) block grant replaced the AFDC, marking the first time the federal government transformed an entitlement program (which guarantees individual rights to benefits) into a block grant. Under the AFDC, the federal government reimbursed states a portion of the costs they bore for running the program without placing a ceiling on the amount. In contrast, the TANF block grant caps annual federal funding at \$16.489 billion and provides a yearly lump sum to each state, which it can use to manage its own program. As the TANF issue illustrates, the national government can reverse the escalating costs of federal grant programs by eliminating uncapped federal funding.

Another noteworthy characteristic of block grants is that their flexibility has been undermined over time as a result of creeping categorization, a process in which the national government places new administrative requirements on state and local governments, or supplants block grants with new categorical grants. Among the more common measures used to restrict block grants' flexibility are set asides, which require a certain share of grant funds to be designated for a specific purpose, and cost ceilings, which place a cap on funding other purposes.



TERMS TO KNOW

Categorical grants

Federal transfers formulated to limit recipients' discretion in the use of funds and subject them to strict administrative criteria that guide project selection, performance, and financial oversight, among other things.

Block Grants

Funding that comes with less stringent federal administrative conditions and provides recipients more flexibility over how to spend grant funds.

3. Unfunded Mandates

Unfunded mandates are federal laws and regulations that impose obligations on state and local governments without fully compensating them for the administrative costs they incur. The federal government has used mandates increasingly since the 1960s to promote national objectives in policy areas such as the environment, civil rights, education, and homeland security.

One type of mandate threatens civil and criminal penalties for state and local authorities who fail to comply with the mandate, while another provides for the suspension of federal grant money if the mandate is not followed. Punishments normally include reduction or suspension of federal grants, prosecution of officials, fines, or some combination of these penalties. For example, Title VI of the Civil Rights Act of 1964 authorizes the federal government to withhold federal grants from violators, as well as to file lawsuits against state and local officials for practicing racial discrimination.

Finally, some mandates come in the form of partial preemption regulations, whereby the federal government sets national regulatory standards but delegates their enforcement to state and local governments. For example, the Clean Air Act sets air quality regulations but instructs states to design implementation plans to achieve those standards (Figure 3).



United States
Environmental Protection
Agency

The Plain English Guide To The Clean Air Act



(Figure 3) The Clean Air Act is an example of an unfunded mandate. The Environmental Protection Agency sets federal standards regarding air and water quality, but it is up to each state to implement plans to achieve these standards.

The widespread use of federal mandates in the 1970s and 1980s provoked a backlash among state and local

authorities, which culminated in the Unfunded Mandates Reform Act (UMRA) in 1995. The UMRA's main objective has been to restrain the national government's use of mandates, by subjecting rules that impose unfunded requirements on state and local governments to greater procedural scrutiny. However, since the act's implementation, states and local authorities have obtained limited relief.

The number of mandates has continued to rise and some have been especially costly to state and local authorities.

IN CONTEXT

Consider the Real ID Act of 2005, a federal law designed to beef up homeland security. The law requires driver's licenses and state-issued identification cards (DL/IDs) to contain standardized anti-fraud security features, specific data, and machine-readable technology. It also requires states to verify the identity of everyone being reissued DL/IDs. The cost to states of re-issuing DL/IDs, implementing new identity verification procedures, and redesigning DL/IDs is estimated to be \$11 billion, and the federal government reimburses only a small fraction. Compliance with federal law has been onerous for many states. Numerous extensions to states were granted since 2016. Ultimately, all fifty states and the District of Columbia were certified as compliant.

The continued use of unfunded mandates clearly contradicts new federalism's call for giving states and local governments more flexibility in carrying out national goals. The temptation to use them appears to be difficult for the federal government to resist. This is because mandates allow the federal government to fulfill its national priorities while passing most of the cost to the states, an especially attractive strategy for national lawmakers trying to cut federal spending. Some leading federalism scholars have used the term coercive federalism to capture this aspect of contemporary U.S. federalism. In other words, the national government has been as likely to use the stick of mandates as the carrot of grants to accomplish its objectives. As a result, there have been more instances of confrontations between the states and the federal government.



SUMMARY

In this lesson, you learned how **federal spending** has expanded greatly through grants. Specifically, you discovered that categorical grants severely restrict states in how they can spend the money, giving the federal government more control, whereas block grants give the states more flexibility, but they also require the states to help fund these programs. Finally, you learned that **unfunded mandates** require states to follow federal regulations, such as the Clean Air Act, even if federal funds don't pay for the implementation of those regulations.

Source: THIS CONTENT AND SUPPLEMENTAL MATERIAL HAS BEEN ADAPTED FROM OPENSTAX "AMERICAN GOVERNMENT 3E" ACCESS FOR FREE AT openstax.org/details/books/american-government-3e



TERMS TO KNOW

Block Grants

Funding that comes with less stringent federal administrative conditions and provides recipients more flexibility over how to spend grant funds.

Categorical Grants

Federal transfers formulated to limit recipients' discretion in the use of funds and subject them to strict administrative criteria that guide project selection, performance, and financial oversight, among other things.

Unfunded Mandates

Federal laws and regulations that impose obligations on state and local governments, without fully compensating them for the administrative costs they incur.

State and Local Governments

by Sophia



WHAT'S COVERED

In this lesson, you will learn about the structure of state and local governments and their relationship with each other. The American government is sometimes called an experiment in democracy—and you will discover the creative and crucial role states play in this experiment. Specifically, this lesson covers:

1. States as Laboratories of Democracy

Federalism promotes policy innovation and political participation, and it accommodates the diversity of opinion. On the subject of policy innovation, Supreme Court Justice Louis Brandeis observed in 1932 that “a single courageous state may, if its citizens choose, serve as a laboratory, and try novel social and economic experiments without risk to the rest of the country.” What Brandeis meant was that states could harness their constitutional authority to engage in policy innovations that might eventually be copied by other states and at the national level.

For example, a number of modern-day federal policies, such as child labor laws, were first inspired by state policies. Prior to the passage of the Nineteenth Amendment, women already had the right to vote in several states. And, the state of California has led the way in establishing standards for fuel emissions and other environmental policies (Figure 1).



(a)



(b)

(Figure 1) The California Air Resources Board was established in 1967 before the passage of the federal Clean Air Act. The federal Environmental Protection Agency has adopted California emissions standards nationally, starting with the 2016 model year, and is working with California regulators to establish stricter national emissions standards going forward. The Trump Administration revoked California's authority to set higher standards than their lower federal standards, however, California challenged this ruling in court. The Biden Administration has subsequently reversed the Trump ruling.

Credit: a) Modification of work by Antti T. Nissinen; b) Modification of work by Marcin Wichary

The system of checks and balances in our political system often prevents the federal government from imposing uniform policies across the country. As a result, states and local communities have the ability to address policy issues based on the specific needs and interests of their citizens. The diversity of public viewpoints across states is illustrated by differences in the way states handle matters like access to abortion, distribution of alcohol, gun control, and social welfare benefits.

Controversial national policy decisions by lawmakers and justices tend to grab headlines and dominate social media, while state and local government matters often evoke less enthusiasm. Yet, if we think about which level of government most directly affects us on a daily basis, it is undoubtedly the level closest to us, including our city, county, school districts, and state government. Whether it is by maintaining roads we drive on each day, supplying clean water with which we brush our teeth, or allocating financial support to higher education, state and local governments provide resources that shape our everyday lives.

How do state and local governments gain the authority to make these decisions, and how are their actions guided by cultural and other differences between the states? What tensions exist between local and state governments on policy matters, and what unique powers do mayors and governors enjoy? These questions are all answered by exploring the role of state and local governments in our lives.

2. Relationship Between States and Local Governments

The U.S. Constitution is silent on the relationship between state and local governments within each state. As you've learned, states are mentioned specifically in the Constitution and granted reserved powers by the Bill

of Rights. Local jurisdictions, however, are not mentioned at all. Traditionally, Americans have interpreted this to mean that states alone hold authority. Through their own constitutions and statutes, states decide what to require of local jurisdictions and what to delegate.

This structure represents the legal principle of **Dillon's Rule**, named for Iowa Supreme Court Justice John F. Dillon. Dillon argued that state actions override those of the local government and have supremacy. In this view, cities and towns exist at the pleasure of the state, which means the state can step in, and even dissolve them or take them over. Indeed, most states have supremacy clauses over local governments built into their constitutions.

However, for practical purposes, state and local governments must work together to ensure that citizens receive adequate services. Given the necessity of cooperation, many states have granted local governments some degree of autonomy, including the discretion to make policy and tax decisions. This added independence is called **home rule**, and the transfer of power is typically spelled out within a charter. Charters are similar to state constitutions: they provide a framework and a detailed accounting of local government responsibilities and areas of authority. Potential conflicts can come up over home rules. For example, in 2015, the State of Texas overruled a fracking ban imposed by the City of Denton.



TERMS TO KNOW

Dillon's Rule

Legal principle that asserts that state actions trump those of the local government and have supremacy.

Home Rule

A degree of autonomy and discretion given to local governments to make policy or tax decisions.

3. Governors

The chief executive of a state government is called the **governor**. Governors are the spokesperson for the state. They oversee the implementation of public policy, and they help shepherd legislation through the lawmaking process.

Governors must learn to work with other lawmakers, bureaucrats, cabinet officials, and the citizens who elected them to office in the first place.

→ EXAMPLE The ongoing water crisis in Flint, Michigan, provides a good case in point. The COVID-19 pandemic put every governor on the hot seat, as they considered decisions on masks, social distancing, and how to allocate federal funds (Figure 2).



(Figure 2) Michigan governor Gretchen Whitmer is briefed by the military on the potential to convert the TCF Center, a convention venue in downtown Detroit, into a medical site to care for persons with COVID-19.

Although governors serve as the head of the executive branch and the state bureaucracy, they also have tremendous power over the legislative branch. One reason is that they serve year-round, unlike state legislatures, which tend to meet for only part of the year. State legislators often hold down another job besides that of legislators.

Governors can command wide press coverage by virtue of being the leading elected official in their state, and they also hold strong formal powers that help them advance their own goals. Governors have four powers through which they influence the legislative process: setting the policy agenda, initiating the state budget, issuing vetoes, and calling special sessions.

3a. Setting Policy

Just as the president gives a State of the Union address once a year, governors give an annual State of the State address before the state legislature (Figure 3). In this speech, they discuss economic and political achievements, cite data that supports their accomplishments, and overview the major items on their legislative agenda. This speech signals to members of the state legislature what priorities are high on the governor's list. Those who share the governor's party affiliation will work with the governor to see those goals achieved.



(Figure 3) Then-governor Nikki Haley delivers her 2015 State of the State address from the State House in Columbia, South Carolina, on January 21, 2015.

3b. Initiating Budgets

In addition to providing a basic list of policy priorities, governors also initiate a budget proposal in most states. Here they indicate funding priorities, and they spell out the amounts that will be appropriated to various state agencies under their discretion. When the economy is strong, governors may find themselves in the enviable position of having a surplus of tax revenue. That allows them some flexibility to decide whether they want to reduce taxes, direct funds toward a new initiative or program, allocate more funds to current programs, restore funds that were cut during times of fiscal distress, or save surplus revenue in a rainy-day account. Moreover, when cuts must be made, especially when the legislature is not in session, it is typically the governor or their finance director who makes the call on what gets cut.

3c. The Threat of Vetoes

Having introduced their priorities, the governor will work on the sidelines to steer favored bills through the legislative process. Once the legislation has made its way through the lawmaking process, it comes to the governor's desk for signature. If a governor signs the bill, it becomes law, and if the governor does not like the terms of the legislation they can veto, or reject, the entire bill. The bill can then become law only if a **supermajority**, or two-thirds of legislators overrides the veto by voting in favor of the bill. This can be unlikely, as it often requires many members of the governor's own party to vote against the governor, so even threatening to veto can be enough to get legislators to make concessions to the governor, even before the governor has a chance to veto the legislation.

The ability to veto legislation is just one of the formal powers governors have at their disposal. Formal powers are powers the governor may exercise that are specifically outlined in state constitutions or state law. Unlike U.S. presidents, many governors also have additional veto powers at their disposal, which enhances their ability to check the actions of the legislative branch. For instance, most states provide governors with the power of the line-item veto. The **line-item veto** gives governors the ability to strike out a line or individual

portions of a bill, while still letting the remainder pass into law. In addition, approximately 30 percent of governors have the power of an **amendatory veto**, which allows them to send a bill back to the legislature with a request for a specific amendment attached. Finally, a small number of governors, including the governor of Texas, also have the power of a reduction veto, which allows them to reduce the budget proposed in a piece of legislation.

3d. Calling Special Sessions

Besides the formal power to prepare the budget and veto legislation, governors also have the power to call special sessions of the legislature for a wide array of reasons. For instance, sessions may be called to address budgetary issues during an economic downturn, to put together a redistricting plan, or to focus intensively on a particular issue the governor wants rectified immediately. In some states, only the governor has the power to call a special session, while in other states this power is shared between the legislative and the executive branches.



TERMS TO KNOW

Governor

The chief executive of a state government.

Supermajority

More than a majority of votes.

Line-item Veto

The ability of a governor to strike out a line or individual portions of a bill, while still letting the remainder pass into law.

Amendatory Veto

The ability of a governor to send a bill back to the legislature with the request that a specific amendment is added.

Reduction Veto

The ability of a governor to reduce the budget proposed in a piece of legislation.

4. State Legislatures

State legislatures are representative bodies in which elected officials make policy decisions on behalf of the state. State legislatures serve three primary functions. They perform a lawmaking function by researching, writing, and passing legislation. Members also represent their districts and work to meet requests for help from citizens within them. Finally, legislatures perform an oversight function for the executive branch.

All state representatives and senators serve on committees that examine, research, investigate, and vote on legislation that relates to the committee's purpose, such as agriculture, transportation, or education. The number of bills introduced in any given session varies. Some state legislatures have more restrictive rules concerning the number of bills any one member can sponsor. Legislators get ideas for bills from lobbyists of various types of interest groups, ranging from corporate groups to labor unions to advocacy organizations. Ideas for bills also come from laws passed in other state legislatures, from the policy that diffuses from the federal government, from constituents or citizens in the officeholder's district, and from their own personal policy agenda.

Legislators also work with the governor's agenda in the course of each legislative session, and they must

pass a budget for their state either every year or every two years.

Representatives also must address the concerns and needs of the people they represent. Typically, this will entail helping members in the district who need assistance or have problems with the government they want to be addressed. For instance, a constituent may write an elected official asking for help dealing with the bureaucracy, such as in a decision made by the tax commission, requesting a letter of recommendation for acceptance into a military academy, or proposing a piece of legislation the member can help turn into a law.

Legislators also try to bring benefits back to their district. These benefits might include money that can be spent on infrastructure improvements or grants for research. Finally, members will accept requests from local government officials or other constituents to attend parades, ribbon-cutting ceremonies, or other celebratory events within their district (Figure 4). They will also work with teachers and faculty to visit classes or meet with students on field trips to the state capitol.



(Figure 4) To celebrate the opening of the new Loyola Avenue streetcar line, the mayor of New Orleans, Mitch Landrieu, marched with the St. Augustine "Marching 100" on January 28, 2013.

Credit: U.S. Department of Transportation)

The last primary function of state legislators is to oversee the bureaucracy's implementation of public policy, ensuring that it occurs in the manner the legislature intended. State legislatures may request that agency heads provide testimony about spending in hearings, or they may investigate particular bureaucratic agencies to ensure that funds are being disbursed as desired. Since legislators have many other responsibilities and because some meet for only a few months each year, they may wait to investigate until a constituent or lobbyist brings a problem to their attention.



TERM TO KNOW

State Legislature

The representative body in states through which elected officials pass laws on behalf of the state.

5. County and City Governments

County and city governments make up an important component of the overall structure of the government. Not only do they affect citizens directly, but it is also easier for citizens to interact with local government officials because their offices and the community's school board or city council meetings are often most proximate to their constituents' homes. Despite this fact, voter turnout in local elections tends to be lower than in state and national elections. City and county governments differ in structure and purpose in several ways.

5a. County Government

County governments serve a larger geographical area than cities and towns, but a smaller area than states. They are created by the state government and typically operate under provisions set out in the state constitution. As such, they are essentially administrative units of the state. There are just over three thousand counties in the United States. County systems usually take one of three basic forms: the commission system, the council-administrator system, or the council-elected executive system.

The most common form of county government is the **commission system**. Under this structure, an elected commission, which generally consists of a small number of commissioners, serves as the governing body within the county, performing all legislative and executive functions. These include adopting a budget, passing county resolutions, and hiring and firing county officials.

Under the **council-administrator system**, the voters elect council members to serve for a specified period of time, and the council in turn appoints an administrator to oversee the operation of the government. The administrator serves at the directive of the council and can be terminated by the council. The goal of this arrangement is to divide administrative and policymaking responsibilities between the elected council and the appointed administrator.

Under a **council-elected executive system**, the voters elect both the members of the council and the executive. The executive performs functions similar to those of the state governor. For instance, the executive can veto the actions of the council, draft a budget, and provide suggestions regarding public policy.

Although the tasks they perform can vary from state to state, most counties have a courthouse that houses county officials, such as the sheriff, the county clerk, the assessor, the treasurer, the coroner, and the engineer. These officials carry out a variety of important functions and oversee the county government.

For instance, the county coroner investigates the cause of death when suspicious circumstances are present. The county clerk oversees the registration of voters and certifies election results for the county. In addition, this officeholder typically keeps the official birth, death, and marriage records. The county treasurer oversees the collection and distribution of funds within the county. The county assessor conducts property tax evaluations and informs individual citizens or business owners of their right to contest the appraised value of their property. A county engineer will oversee the maintenance and construction of county infrastructure.

In short, counties help to maintain roads and bridges, courthouses and jails, parks and pools, and public libraries, hospitals, and clinics. To provide these services, county governments typically rely on property tax

revenue, a portion of sales tax receipts, and funds from intergovernmental transfers by way of federal or state grants.



TERMS TO KNOW

Commission System

A structure of county government that consists of a small number of commissioners who serve as the governing body within the county, performing all legislative and executive functions.

Council-administrator System

A structure of county government in which the voters elect council members to serve for a specified period of time, and the council in turn appoints an administrator to oversee the operation of the government.

Council-elected Executive System

A structure of county government where the voters elect both the members of the council and the executive. The executive performs functions similar to those of the state governor.

5b. City Government

Municipal governments oversee the operation and functions of cities and towns. The vast majority of municipal governments operate on one of two governing models: a mayor-council system or a council-manager system.

Under the **mayor-council system** voters elect both a mayor and members of the city council. The city council performs legislative functions and the mayor the executive functions. Under this system, the mayor may be given a great deal of authority or only limited powers. Under a strong mayor system, the mayor will be able to veto the actions of the council, appoint and fire the heads of city departments, and produce a budget. Under a weak mayor system, the mayor has little authority compared to the council and acts in a ceremonial capacity as a spokesperson for the city.

In a **council-manager system** of government, either the members of the city council are elected by voters along with a mayor who presides over the council, or the voters elect members of the city council and the mayor is chosen from among them. In either case, the city council will then appoint a city manager to carry out the administrative functions of the municipal government. This frees the city council to address political functions such as setting policy and formulating the budget.

Municipal governments are responsible for providing clean water as well as sewage and garbage disposal. They must maintain city facilities, such as parks, streetlights, and stadiums (Figure 5). In addition, they address zoning and building regulations, promote the city's economic development, and provide law enforcement, public transportation, and fire protection. Municipal governments typically rely on property tax revenue, user fees from trash collection and the provision of water and sewer services, a portion of sales tax receipts, and taxes on business.



(Figure 5) The Sporting Park in Kansas City, Kansas, is home to various sporting events. The stadium first opened for business in 2011, and taxpayers financed \$146 million of the total cost to build the stadium, an office park, and a youth soccer complex.

credit: Wesley Fryer



TERMS TO KNOW

Municipal Government

City government.

Mayor-council System

A form of city government where voters elect both a mayor and members of the city council. The city council performs legislative functions and the mayor the executive functions.

Council-manager System

A form of city government where either the members of the city council are elected by voters along with a mayor who presides over the council, or the voters elect members of the city council and the mayor is chosen from among them.



SUMMARY

In this lesson, you learned that **states as laboratories of democracy** serve a very important role in the federal system. Although the **relationship between states and local governments** allocates all the power to the state, county and city governments operate independently with their own elected officials and administrations. They also have different structures. You learned that **governors** not only head the executive branch, but they also often have strong formal powers that place them at an advantage over **state legislatures**.

Source: THIS CONTENT AND SUPPLEMENTAL MATERIAL HAS BEEN ADAPTED FROM OPENSTAX "AMERICAN GOVERNMENT 3E" ACCESS FOR FREE AT openstax.org/details/books/american-government-3e



ATTRIBUTIONS

- Gretchen Whitmer is briefed on the capabilities and status of converting Detroit's TCF Center into an alternate care site for COVID-19 cases | Author: Air Force Master Sgt. Scott Thompson | License: Public Domain



TERMS TO KNOW

Amendatory Veto

The ability of a governor to send a bill back to the legislature with the request that a specific amendment is added.

Commission System

A structure of county government that consists of a small number of commissioners who serve as the governing body within the county, performing all legislative and executive functions.

Council-administrator System

A structure of county government in which the voters elect council members to serve for a specified period of time, and the council in turn appoints an administrator to oversee the operation of the government.

Council-elected Executive System

A structure of county government where the voters elect both the members of the council and the executive. The executive performs functions similar to those of the state governor.

Council-manager System

A form of city government where either the members of the city council are elected by voters along with a mayor who presides over the council, or the voters elect members of the city council and the mayor is chosen from among them.

Dillon's Rule

Legal principle that asserts that state actions trump those of the local government and have supremacy.

Governor

The chief executive of a state government.

Home Rule

A degree of autonomy and discretion given to local governments to make policy or tax decisions.

Line-item Veto

The ability of a governor to strike out a line or individual portions of a bill, while still letting the remainder pass into law.

Mayor-council System

A form of city government where voters elect both a mayor and members of the city council. The city council performs legislative functions, and the mayor performs the executive functions.

Municipal Government

City government.

Reduction Veto

The ability of a governor to reduce the budget proposed in a piece of legislation.

State Legislature

The representative body in states through which elected officials pass laws on behalf of the state.

Supermajority

More than a majority of votes.

Terms to Know

Amendatory Veto

The ability of a governor to send a bill back to the legislature with the request that a specific amendment is added.

Amendment

A change to a constitution.

Apportionment

The allocation of representatives in proportion to the population.

Bill of Rights

The first ten amendments to the U.S. Constitution; most were designed to protect fundamental rights and liberties.

Bills of Attainder

Laws that would declare someone guilty without a trial.

Block Grants

Funding that comes with less stringent federal administrative conditions and provides recipients more flexibility over how to spend grant funds.

Capitalism

An economic system in which individuals and corporations, not the government, own the principal means of production and seek profits.

Categorical Grants

Federal transfers formulated to limit recipients' discretion in the use of funds and subject them to strict administrative criteria that guide project selection, performance, and financial oversight, among other things.

Checks and Balances

A system that allows one branch of government to limit the exercise of power by another branch; requires the different parts of government to work together.

Commerce Clause

The clause in the U.S. Constitution that enumerates the federal government's power "to regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes."

Commerce clause

A clause in the Constitution that gives Congress the power “to regulate commerce with foreign nations, and among the several states, and with the Indian tribes.”

Commission System

A structure of county government that consists of a small number of commissioners who serve as the governing body within the county, performing all legislative and executive functions.

Communism

An economic system in which the government owns all the means of generating wealth, such as factories, large farms, and banks.

Competitive Federalism

When functions belong to the federal government, the state governments, and local governments.

Concurrent Powers

Shared and overlapping powers between the national government and the states.

Confederation

A system of government that is decentralized, in which the central government’s ability to act depends on the consent of the subnational governments.

Cooperative Federalism

Both levels of government coordinate their actions to solve national problems.

Council-administrator System

A structure of county government in which the voters elect council members to serve for a specified period of time, and the council in turn appoints an administrator to oversee the operation of the government.

Council-elected Executive System

A structure of county government where the voters elect both the members of the council and the executive. The executive performs functions similar to those of the state governor.

Council-manager System

A form of city government where either the members of the city council are elected by voters along with a mayor who presides over the council, or the voters elect members of the city council and the mayor is chosen from among them.

Democracy

A government in which political power—fluence over institutions, leaders, and policies—rests in the hands of the people.

Dillon's Rule

Legal principle that asserts that state actions trump those of the local government and have supremacy.

Direct Democracy

A political system in which people participate directly in making government decisions.

Dual Federalism

The states and national government exercise exclusive authority in distinct spheres of jurisdiction.

Egalitarianism

A belief that promotes equality among people.

Elastic Clause

Another name for the necessary and proper clause.

Elite Theory

The argument that a set of elite citizens is in charge of government in the United States and that others have no influence

Enumerated Powers

The powers given explicitly to the federal government by the Constitution (Article I, Section 8); power to regulate interstate and foreign commerce, raise and support armies, declare war, coin money, and conduct foreign affairs.

Ex Post Facto Laws

Laws that criminalize an act after it has been committed.

Federal System

A form of government in which power is divided between state governments and a national government.

Federalism

A system of government with two relatively independent levels, each with the capacity to act directly on behalf of the people.

Federalist Papers

A series of essays intended to convince Americans to support the new Constitution.

General Revenue Sharing

Programs created to distribute funds to the state and local governments with minimal restrictions on how the money is spent.

Government

The means by which a society organizes itself and allocates authority to accomplish collective goals.

Governor

The chief executive of a state government.

Great Compromise

The compromise regarding congressional representation between large and small states.

Gross Domestic Product

Total value of goods and services produced by a nation in a single year.

Home Rule

A degree of autonomy and discretion given to local governments to make policy or tax decisions.

Impeach

Bring formal charges against elected and appointed officials in order to remove them from office.

Implied Powers

Authority that is not explicitly stated in the Constitution but is granted based on stated Constitutional power.

Individualism

A belief that promotes self-reliance and an individual's freedom from government control.

Initiative

A process that allows citizens to put a proposed law on the ballot through the collection of signatures.

Judicial Review

The power of the courts to look at actions taken by the other branches of government, and

by the states, to determine whether they are constitutional.

Liberty

An individual right that governments cannot restrict.

Limited Government

A form of government in which the rights of the people limit the powers that government can exercise.

Line-item Veto

The ability of a governor to strike out a line or individual portions of a bill, while still letting the remainder pass into law.

Majority Rule

A fundamental principle of democracy that states the majority should have the power to make decisions binding for the whole population.

Mayor-council System

A form of city government where voters elect both a mayor and members of the city council. The city council performs legislative functions, and the mayor performs the executive functions.

Minority Rights

Protections for those who are not part of the majority.

Municipal Government

City government.

Necessary and Proper Clause

The statement in Article I of the Constitution, also known as the elastic clause, that provides Congress with any additional powers that it may need to carry out its enumerated powers.

New Federalism

The idea that the decentralization of policies enhances administrative efficiency, reduces overall public spending, and improves policy outcomes.

Oligarchy

A handful of elite members of society who hold all political power.

Political Culture

The widely held beliefs, values, and attitudes about government and politics.

Political Power

Influence over institutions, leaders, and policies.

Politics

The process of gaining and exercising control within a government for the purpose of setting and achieving particular goals.

Recall

An election to remove a public official from office.

Reduction Veto

The ability of a governor to reduce the budget proposed in a piece of legislation.

Referendum

A vote by the public on a proposed law or amendment that has been put on the ballot by the legislature.

Representative Democracy

A form of government in which voters elect representatives to make decisions and pass laws on behalf of all the people, instead of allowing people to vote directly on laws.

Republic

A representative democracy.

Reserved Powers

Powers not prohibited by the Constitution or delegated to the national government that are reserved for the states.

Rule of Law

The limits on the behavior of people and institutions set by a system of laws.

Separation of Powers

The sharing of powers among three separate branches of government.

Social Contract

An implicit agreement between a people and their government.

Socialism

An economic system in which the government owns some of the means of generating wealth.

Sovereign (sovereignty)

The authority to self-govern or govern another entity.

State Legislature

The representative body in states through which elected officials pass laws on behalf of the state.

Statute

A law or legal document that has the power of a law.

Statutory Law

Laws passed by a legislature.

Supermajority

More than a majority of votes.

Supremacy Clause

The statement in Article VI of the Constitution that federal law is superior to laws passed by state legislatures.

Totalitarianism

A form of government where government is all-powerful.

Tyranny of the Majority

The imposition of the will of the majorities exclusively to their benefit and to the detriment of a minority population.

Unfunded Mandates

Federal laws and regulations that impose obligations on state and local governments, without fully compensating them for the administrative costs they incur.

Veto

The power of the president to reject a law passed by Congress.

Writ of Habeas Corpus

A court order directing that an officer who has custody of a prisoner show cause why the prisoner is being held) except in cases of invasion, rebellion, or threat of public safety.

Events to Know

9/11 Attacks (2001)

Terrorist attacks on the Twin Towers by Islamic extremists that claimed the lives of almost 3,000 people in New York City.

Affordable Care Act (2010)

A landmark health care reform law enacted in 2010 with the goal of making health insurance affordable to more people.

Articles of Confederation (1781-1789)

The first constitution of the United States.

Declaration of Independence (1776)

A document written in 1776, in which the American colonists listed their grievances against the British king, and proclaimed their independence from Great Britain.

Dred Scott v. Sandford

A Supreme Court case through which the Court established that the federal government did not have the right to ban slavery from new U.S. territories.

Gibbons v. Ogden

A Supreme Court case in which the Court asserted the right of the federal government to regulate interstate commerce, including maritime activity.

Marbury v. Madison

The Supreme Court case that established the power of judicial review.

McCulloch v. Maryland

A Supreme Court case in which it was ruled that Congress could create a national bank even though the Constitution did not expressly authorize it.

New Deal (1930s)

A series of new government programs aimed at supporting workers and the economy during the great depression.

New Jersey Plan (1787)

A plan that would strengthen the Articles of Confederation and provide smaller states with the same power in the national legislature as larger states.

The Great Depression (1929-1939)

A period of exceptional economic hardship in the U.S. and abroad, characterized by high unemployment and shrinking gross domestic product.

Virginia Plan (1787)

A plan that would provide for a bicameral legislature consisting of two houses, and the number of a state's representatives in each house was to be based on the state's population.