

## How does the Government work?

- Limited Government - so no one has complete control/power
  - Written Constitution - rulebook that states what the government can do, and no more
  - Enlightenment Period - our government is based on thinkers during that time such as John Locke. Idea during this time that individuals matter and they should have rights. The founders took ideas from that period and put it in place.
  - Natural Rights - John Locke's theory that everyone is born with certain rights. According to this theory, the role of government is to protect those rights, since we're already god-given those rights.
  - Social Contract - Thomas Hobbes' theory that man was put in this state of nature with total freedom and no rules. Man decided that it wasn't good, so formed a society with rules so that everything will work out. Means that we'll give up some of our freedom in exchange for security. According to this theory, man came before government.
  - Articles of Confederation (1781-87) - the first central government in the United States after the Revolutionary War. The founders wanted the first government to be very weak so they set up a confederation, where the states have more power than the national government. Every state was equal and had one vote.
  - Shays Rebellion - the central government was too weak to put down a rebellion, since there was no military or taxing power
  - Constitutional Convention (1787) - convention to decide how to change our government since they realized it was too weak after the rebellion. Should there be a strong or weak central government?
  - Constitutional Compromises - how would states be represented in the national government?
    - Great Compromise - Before, each state was equal and had 1 vote. The compromise was bicameral legislature, meaning our Congress has two houses. The House of Representatives gives the power to big states because the amount of Congressmen is determined by the population. The Senate represents every state, since every state gets 2 senators, so it protects small states as well.
    - 3/5ths Compromise - Before, southern states slave populations were considered and the northern states didn't count slaves at all. The compromise was that 3/5th of the slaves would count towards population.
    - Tax Compromise - The North wanted to tax imports (tariff - protectionism) since they wanted to keep out foreign competition since they were beginning to industrialize. The South didn't want a tax import because it hurts the consumers. The South also didn't want a tax on exports since that would hurt their economy. The compromise was that there is a tax on imports, but no tax on exports.
    - Electoral College Compromise
- What are the anti-majority checks in our constitution?
- The constitution itself is a anti-majority check because just because the majority wants something doesn't mean it'll happen since it'll disadvantage the minority
    - Amendment process - very slowly done, needs 2/3rd of each House to agree in addition of 3/4ths of the states to pass it

- The Bill of Rights - the first 10 amendments of 1789
  - Certain core rights that everyone has regardless of what the public thinks/wants
- The Courts - especially the federal ones
  - They do their own things, don't care about public opinion since they aren't elected, they're appointed by the President with the Senate's approval, term lasts for life
- The Senate

#### How does our Federal System of Government Work?

- Most governments in the world have a unitary system which means the national government is supreme (and there aren't many levels). The government acts more directly for the people. Countries like this are Israel, Britain, and France.
- Federal government means the state and central governments share power with the national government on top with state governments under and then local governments. Both the national and state governments work with the citizens. A nickname is the layer-cake federalism where theoretically it's easy to see who does what, but in reality we have marble-cake federalism where it's hard to distinguish the difference between who does what. This is done where there's a wide variety of groups so the power is spread out, including America, Canada, and Mexico.
- Delegated Powers - powers that are granted by the Constitution to both the federal and state government
- Elastic Clause - stretches the national government's power to expand what they could do beyond the basics in the Constitution.
- The elastic clause creates implied powers
  - They could coin money, so as an implied power they could do anything relating to interest
  - They could raise an army, so as an implied power they could draft soldiers
  - They could regulate interstate commerce, so as an implied power they could tell a business to do or not to do something if the business conducts business with another state. For example, if a segregated hotel buys bed sheets from another state, the government could tell it to stop being segregated because of interstate commerce. Similarly, if a gun is bought from another state, then it can be regulated in the state. U.S. vs Lopez (1995) ruled that there's a devolution of federal power, meaning Congress could use of the commerce clause.

#### Fiscal Federalism

- How does the Federal Government allocate money to the states?
- The federal government's budget is 4 trillion dollars per year
- All the states compete with each other for federal dollars - they lobby the federal government for aid just like corporations. If they're successful, it's called bringing home the bacon - congressmen like bringing money back to the district.
- This list of allocating money goes from the most federal control to the least federal control. Liberals want federal control while Conservatives want less federal control.
- 1) Categorical Grants In Aid - Money given for a specific purpose, such as social studies education. It's "strings attached" meaning it's watched to make sure it's used for the right

purpose. A congressman would credit himself for doing something with this type of grant. A state could opt out of getting the grant if they don't like the conditions.

- 2) Block Grants - Money given for a broader purpose, such as education. It gives the state more flexibility in with what it's allowed to use it for.
- 3) Revenue Sharing - Money given with no strings attached at all
- If you have most faith in the state, then give it to them and let them deal with it to use it wisely. If you don't trust them, then you'll probably give them a categorical grant since they have a bad track record. In broader grants, a congressman can't point and say "I got you that" compared to a Categorical grant in which it's specific as to what he did for the district.
- 4) Mandates - A rule the federal government makes to force a state to do something. Sometimes they're funded, which means the federal government will pay for it, but other times they're unfunded. Makes the federal government more powerful. Sometimes used when states aren't doing something properly. Could also be used in the case of "make the drinking age in your state 21, or else we won't give you highway funds." Famous mandates include
  - Americans with Disabilities Act (ADA) - states must make their buildings handicapped accessible
  - Affordable Care Act (ACA-Obamacare) - states must provide health care for their citizens, with some funds by the federal government

#### State-to-State Relations

- Article IV of the Constitution discusses how states interact with each other
- 1) The Privileges and Immunities Clause - a state must treat citizens of other states the same as their own citizens (a NJ cop can't make a NYer pay extra on a speeding ticket).
- 2) The Full Faith and Credit Clause - a state must recognize another state's legal decisions (like a marriage license, rules for divorce, court decisions). In the 1900's the Defense Of Marriage Act (DOMA) was created that ruled states do not have to recognize other state's marriages (hinting to gay marriages). Some say it is unconstitutional and refuse to enforce it.
- 3) Extradition - A fugitive hiding in one state must be returned to the state where the crime occurred

#### Does Federalism Breed Inequalities?

- Health - seem to be wide disparities in money spent and quality received
- Education - states have different standards in what's considered "proficient"

#### Federal Obligations to States

##### Historical eras of Federalism

1803-1837 - Marshall era federalist, favors national power. Marbury vs. Madison which gives court Judicial Review

- McCulloch vs. Maryland - a state can't tax the federal government. The national bank is constitutional.
- Gibbons vs. Ogden - interstate transportation is constitutional.

1837-1865 - state reassert their authority, weak national government.

1865-1937- dual federalism, a more or less equal relationship

1937-68 - cooperative federalism, national government becomes dominant. FDR - great depression

1968-2001 - The New Federalism was more shifting power back to the states. (Devolution) - sending power back to the lower levels of government. Most recently Scotland was almost granted independence in a close vote but in the end they remained a part of the UK. Reagan lessened federal mandates.

2001-Present - post 9/11 people want the power in the national government because of national security.

#### Pros and cons of Federalism

##### Pros -

- Protects liberty - power is divided
- flexibility
- initiative - (voters decide on an issue), referendum - (voters decide if a law that has already been passed should remain), recall - (voters can remove an elected leader before his term is up) (example - scott walker in wisconsin)
- Multiple access points - "Joe Citizen" can go to the local, state, or national government for help on whatever he needs. If it was just national then he would be lazy and less likely to get involved but since he can go local where he might now his rep he might actually get so access.

##### Cons -

- very slow moving, a lot of waste (marble cake/overlap) it's a messy system
- inequalities amongst communities
- environment
- gun control