

AP GOVERNMENT COOKBOOK



Unit I:

Constitutional
Underpinnings

SYLLABUS - Unit Description

Topic I. Constitutional Underpinnings of United States Government

The study of modern politics in the United States requires students to examine the kind of government established by the Constitution, paying particular attention to federalism, the separation of powers, and Checks and balances.

Understanding these developments involves both knowledge of the historical situation at the time of the Constitutional Convention and an awareness of the ideological and philosophical traditions on which the framers drew . Such understanding addresses specific concerns of the framers: for example, why did Madison fear factions? What were the reasons for the swift adoption of the Bill of Rights? Familiarity with The United States Supreme Court's interpretation of key provisions of the Constitution will aid student understanding of theoretical and Practical features of federalism, separation of powers, and checks and balances .

Students should be familiar with a variety of theoretical perspectives relating to the Constitution, such as democratic theory, theories of republican government, pluralism, and elitism

UNIT I VOCABULARY: 1 of 2

Democracy – Government by the people, both directly or indirectly, with free and frequent elections

Direct democracy – Government in which citizens vote on laws and select officials directly.

Representative democracy – Government in which the people elect those who govern and pass laws; also called a republic.

Constitutional democracy – A government that enforces recognized limits on those who govern and allows the voice of the people to be heard through free, fair, and relatively frequent elections.

Constitutionalism – The set of arrangements, including checks and balances, federalism, separation of powers, rule of law, due process, and a bill of rights, that requires our leaders to listen, think, bargain, and explain before they act or make laws. We then hold them politically and legally accountable for how they exercise their powers.

Statism – The idea that the rights of the nation are supreme over the rights of the individuals who make up the nation.

Popular consent – The idea that a just government must derive its powers from the consent of the people it governs

Majority rule – Governance according to the expressed preferences of the majority

Majority – The candidate or party that wins more than half the votes cast in an election.

Plurality – Candidate or party with the most votes cast in an election, not necessarily more than half.

Theocracy – Government by religious leaders, who claim divine guidance.

Articles of Confederation – The first governing document of the confederated states drafted in 1777, ratified in 1781, and replaced by the present Constitution in 1789.

Annapolis Convention – A convention held in September 1786 to consider problems of trade and navigation, attended by five states and important because it issued the call to Congress and the states for what became the Constitutional Convention.

Constitutional Convention – The convention in Philadelphia, May 25 to September 17, 1787, that debated and agreed upon the Constitution of the United States.

Shays's Rebellion – Rebellion led by Daniel Shays of farmers in western Massachusetts in 1786-1787, protesting mortgage foreclosures. It highlighted the need for a strong national government just as the call for the Constitutional Convention went out.

Bicameralism – The principle of a two-house legislature.

Virginia Plan – Initial proposal at the Constitutional Convention made by the Virginia delegation for a strong central government with a bicameral legislature dominated by the big states.

New Jersey Plan – Proposal at the Constitutional Convention made by William Paterson of New Jersey for a central government with a single-house legislature in which each state would be represented equally.

Connecticut Compromise – Compromise agreement by states at the Constitutional Convention for a bicameral legislature with a lower house in which representation would be based on population and an upper house in which each state would have two senators

Three-fifths compromise – Compromise between northern and southern states at the Constitutional Convention that three-fifths of the slave population would be counted for determining direct taxation and representation in the House of Representatives.

Federalists – Supporters of ratification of the Constitution and of a strong central government

Antifederalists – Opponents of ratification of the Constitution and of a strong central government, generally.

UNIT I VOCABULARY: 2 of 2

Natural law – God’s or nature’s law that defines right from wrong and is higher than human law

Separation of powers – Constitutional division of powers among the legislative, executive, and judicial branches, with the legislative branch making law, the executive applying and enforcing the law, and the judiciary interpreting the law.

Checks and balances – Constitutional grant of powers that enables each of the three branches of government to check some acts of the others and therefore ensure that no branch can dominate.

Devolution revolution – The effort to slow the growth of the federal government by returning many functions to the states.

Federalism – Constitutional arrangement in which power is distributed between a central government and subdivisinal governments, called states in the United States. The national and the subdivisinal governments both exercise direct authority over individuals.

Dual federalism (layer cake federalism) – Views the Constitution as giving a limited list of powers—primarily foreign policy and national defense—to the national government, leaving the rest to the sovereign states. Each level of government is dominant within its own sphere. The Supreme Court serves as the umpire between the national government and the states in disputes over which level of government has responsibility for a particular activity.

Cooperative federalism (marble cake federalism)– Stresses federalism as a system of intergovernmental relations in delivering governmental goods and services to the people and calls for cooperation among various levels of government.

Confederation – Constitutional arrangement in which sovereign nations or states, by compact, create a central government but carefully limit its power and do not give it direct authority over individuals.

Express powers – Powers the Constitution specifically grants to one of the branches of the national government

Implied powers – Powers inferred from the express powers that allow Congress to carry out its functions.

Necessary and proper clause – Clause of the Constitution (Article 1, Section 8, Clause 3) setting forth the implied powers of Congress. It states that Congress, in addition to its express powers has the right to make all laws necessary and proper to carry out all powers the Constitution vests in the national government.

Inherent powers – The powers of the national government in foreign affairs that the Supreme Court has declared do not depend on constitutional grants but rather grow out of the very existence of the national government.

Commerce clause – The clause in the Constitution (Article 1, Section 8, Clause 1) that gives Congress the power to regulate all business activities that cross state lines or affect more than one state or other nations.

Federal mandate – A requirement the federal government imposes as a condition for receiving federal funds.

Concurrent powers – Powers that the Constitution gives to both the national and state governments, such as the power to levy taxes.

Full faith and credit clause – Clause in the Constitution (Article 4, Section 1) requiring each state to recognize the civil judgments rendered by the courts of the other states and to accept their public records and acts as valid.

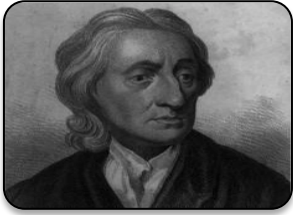
Extradition – Legal process whereby an alleged criminal offender is surrendered by the officials of one states to officials of the state in which the crime is alleged to have been committed.

Interstate compact – An agreement among two or more states. Congress must approve most such agreements.

National supremacy – Constitutional doctrine that whenever conflict occurs between the constitutionally authorized actions of the national government and those of a state or local government, the actions of the federal government will prevail.

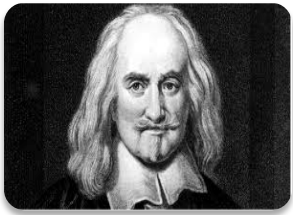
Preemption – The right of a federal law or a regulation to preclude enforcement of a state or local law or regulation.

INFLUENCES ON FOUNDING FATHERS



JOHN LOCKE

- People are naturally good and have natural rights
- Role of Gov't is limited – Social Contract



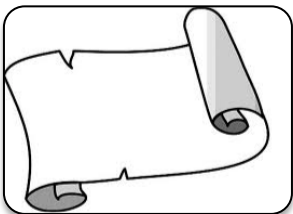
THOMAS HOBBS

- People are naturally evil and selfish
- Role of Gov't is broad – people trade rights for protection



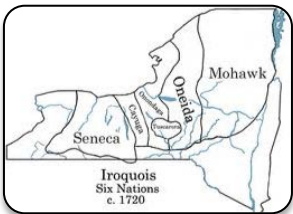
BARON de MONTEQUIEU

- Power should be divided to prevent tyranny
- Origin of “Checks and Balances”



MAGNA CARTA (1215)

- Agreement to limit the British King's power
- Leaders are not above the law



IROQUOIS CONFEDERACY

- Warring tribes put aside differences to form alliance
- Inspiration for Articles of Confederation



REPUBLIC OF ROME

- Served as inspiration for Bicameral Legislature
- Served as inspiration for Judicial system

First American Document: The Declaration of Independence

What did it Do?

Severed Ties
with the
British

Listed
Grievances
with the King

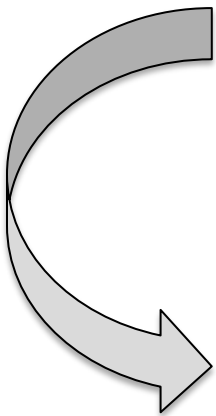
Established
America's
Philosophy

What DIDN'T it Do?

Did not
organize a
gov't.

Did not
declare war

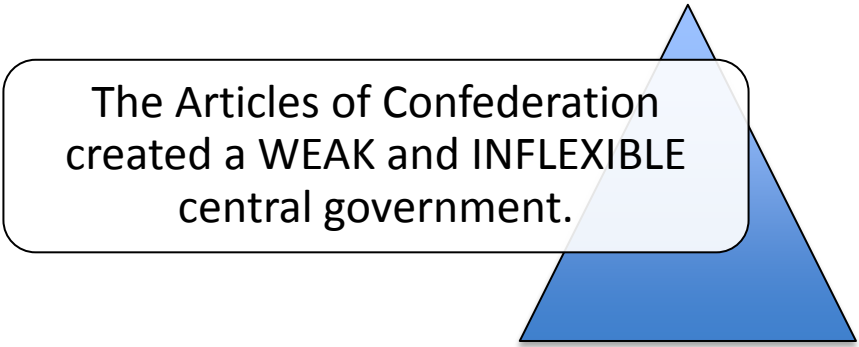
Did not
guarantee
rights



"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." – Declaration of Independence

(Heavily influenced by John Locke)

Our First attempt at Government: The Articles of Confederation



The Articles of Confederation created a WEAK and INFLEXIBLE central government.

Major Problems with the Articles of Confederation:

No President

No Judiciary

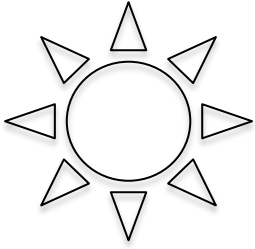
9 of 13 states
needed to pass
laws

Central
Government could
not Tax

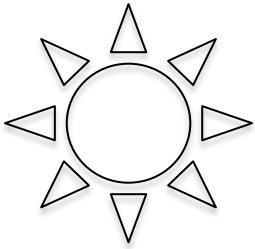
Articles nearly
impossible to
change

Central
Government could
not regulate trade

Our Second attempt at Government: The Constitution



CAUSE: SHAYS' REBELLION POINTED OUT ALL OF THE SHORTCOMINGS OF THE ARTICLES



EFFECT: CONSTITUTIONAL CONVENTION CONVENEED TO REARRANGE GOVERMENT

A COMPARISON:

<u>ARTICLES OF CONFEDERATION</u>	<u>THE CONSTITUTION</u>
NO PRESIDENT	PRESIDENT
NO FEDERAL COURTS	FEDERAL COURTS
STATES HELD MAJORITY OF POWER	POWER SHARED BETWEEN STATES AND CENTRAL GOVERNMENTS
FEDERAL GOVERNMENT COULD NOT LEVY TAXES	FEDERAL GOVERNMENT GIVEN POWER TO TAX
NEARLY IMPOSSIBLE TO CHANGE	DIFFICULT TO CHANGE, BUT ADAPTABLE.
9 OF 13 STATES NEEDED TO PASS LAWS	SIMPLE MAJORITY VOTE
FEDERAL GOVERNMENT COULD NOT REGULATE TRADE	FEDERAL GOVERNMENT COULD REGULATE TRADE
ARMY RAISED BY STATES	ARMY RAISED BY CONGRESS AND PRESIDED OVER BY THE PRESIDENT

Constitutional Compromises

In order to appease both Federalists and Anti federalists, the Framers of the Constitution Forged Compromises:

The 3/5th Compromise

Slaves would count as 3/5ths of a person when calculating population for representation

Indirect Election of President

President elected to a renewable four year term via the electoral college.

Founders feared that the public was too uneducated to choose a leader.

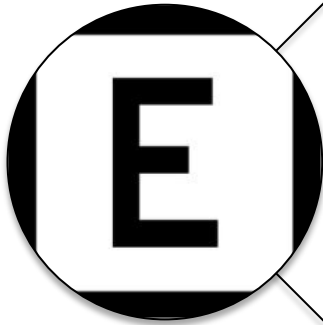
ENUMERATED POWERS IN THE CONSTITUTION

ENUMERATED POWERS ARE SPECIFICALLY MENTIONED AND ASSIGNED TO EITHER CONGRESS OR THE PRESIDENT

<p>CONGRESS</p>	<p><i>POWER TO TAX</i> <i>REGULATE COMMERCE</i> <i>ESTABLISH POST OFFICE</i> <i>ESTABLISH COURTS</i> <i>RAISE AN ARMY</i> <i>APPROVE TREATIES</i> <i>APPROVE APPOINTMENTS</i></p>	<p><i>BORROW MONEY</i> <i>COIN MONEY</i> <i>PATENTS</i> <i>DECLARE WAR</i> <i>ADMIT STATES</i> <i>PASS LAWS</i></p>
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<p>PRESIDENT</p>	<p><i>APPROVE OR VETO BILLS</i> <i>COMMANDER IN CHIEF OR ARMED FORCES</i> <i>PRESIDENTIAL PARDONS</i> <i>NEGOTIATE TREATIES</i> <i>APPOINT JUDGES & AMBASSADORS</i> <i>COMMISSION OFFICERS (GENERALS)</i> <i>GIVE "STATE OF THE UNION ADDRESS"</i> <i>RECEIVE FOREIGN AMBASSADORS</i> <i>CALL A JOINT SESSION OF CONGRESS (RARE)</i> <i>ENFORCE LAWS</i></p>
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IMPORTANT CONSTITUTIONAL CLAUSES – Part One



THE NECESSARY AND PROPER CLAUSE AKA ELASTIC CLAUSE:

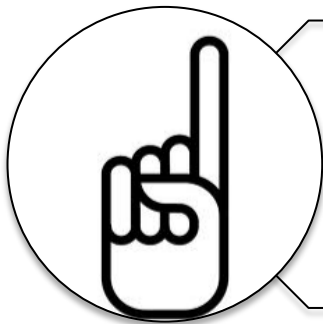
CONGRESS CAN PASS ANY LAW NEEDED TO FUFILL ENUMERATED POWERS.

EG: MILITARY DRAFT



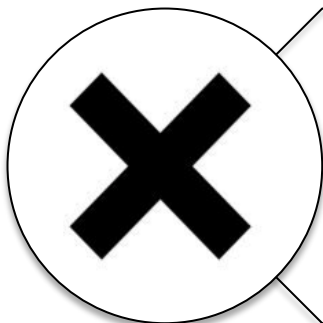
THE COMMERCE CLAUSE:

ENABLES CONGRESS TO REGULATE FOREIGN AND INTERSTATE TRADE



SUPREMACY CLAUSE:

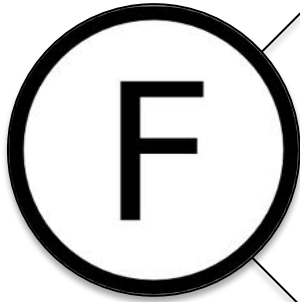
NATIONAL LAW IS SUPRERIOR TO STATE LAW.
STRENGTHENS CENTRAL GOVERNMENT



EX POST FACTO CLAUSE:

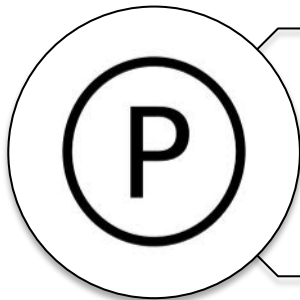
LAWS CANNOT TAKE EFFECT "AFTER THE FACT". YOU MAY NOT BE PUNISHED IF YOUR ACTION WAS LEGAL AT THE TIME.

IMPORTANT CONSTITUTIONAL CLAUSES – Part Two



FULL FAITH AND CREDIT CLAUSE

STATES ARE REQUIRED TO RECOGNIZE THE LAWS OF OTHER STATES.



PRIVELEGES AND IMMUNITIES CLAUSE :

STATES ARE PROHIBITED FROM DISCRIMINATING AGAINST RESIDENTS FROM OTHER STATES

Amending the Constitution

Amending the Constitution is difficult but possible. The framers made it difficult to amend so that their original intentions would be preserved against rash decisions.

1. HoR

- 2/3 of the House of Representatives must approve

2. Senate

- 2/3 of the Senate must approve

- 3/4 of the State Legislatures must approve

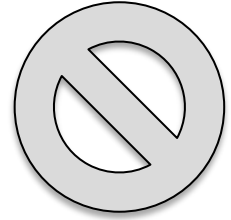
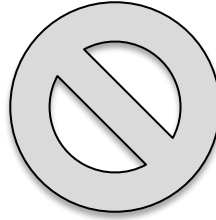
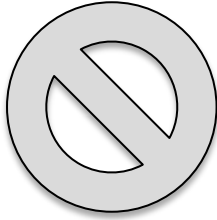
- The President and the Supreme Court do not have the power to approve or disapprove of Constitutional Amendments.

- Constitutional Amendments are the only way to circumvent an “unconstitutional” ruling from the Supreme Court.

SHORTHAND AMENDMENTS

NUMBER	DESCRIPTION
1	R.A.P.P.S. (RELIGION, ASSEMBLY, PRESS, PETITION AND SPEECH)
2	GUNS
3	QUARTERING
4	ILLEGAL SEARCHES AND SEIZURES
5	SELF INCRIMINATION, HABEAS CORPUS, DOUBLE JEOPARDY, DUE PROCESS, IMMINENT DOMAIN
6	SPEEDY PUBLIC TRIAL BY JURY OF PEERS, RIGHT TO A LAWYER
7	RIGHT TO A TRIAL BY JURY FOR CRIMES OVER \$20
8	BAN ON CRUEL AND UNUSUAL PUNISHMENT
9	INDIVIDUAL RIGHTS NOT LIMITED TO THOSE IN THE BILL OF RIGHTS
10	POWERS NOT MENTIONED IN CONST. RESERVED FOR STATES OR PEOPLE
11	FOREIGNERS CAN'T SUE STATES., ONLY A STATE RESIDENT CAN SUE THAT STATE
12	PRES AND V.P. CANNOT BE FROM SAME STATE. REFINES ELECTORAL COLLEGE.
13	NO SLAVERY
14	NATURAL BORN CITIZENSHIP, EQUAL PROTECTION, SELECTIVE INCORPORATION
15	AFRICAN AMERICAN SUFFRAGE
16	INCOME TAX
17	DIRECT ELECTION OF SENATORS
18	NO ALCOHOL PERMITTED
19	WOMEN'S SUFFRAGE
20	INAUGURATION SET FOR JAN. 20 TH . CONGRESS MUST MEET EVERY YEAR.
21	18 TH AMENDMENT REPEALED: ALCOHOL PERMITTED.
22	PRESIDENTIAL TERM LIMITS
23	WASHINGTON DC GETS AS MANY ELECTORAL VOTES AS SMALLEST STATE
24	NO POLL TAXES
25	PRESIDENTIAL SUCCESSION (VP, SPEAKER, PRO TEMP....)
26	SUFFRAGE FOR 18 YEAR OLDS
27	CONGRESSIONAL PAY RAISES CAN'T TAKE EFFECT UNTIL AFTER NEXT ELECTION

ELEMENTS NOT INCLUDED IN THE ORIGINAL 1788 CONSTITUTION



POLITICAL PARTIES & PRIMARIES

FEDERAL COURT STRUCTURE

EXECUTIVE ORDERS

THE CABINET

JUDICIAL REVIEW

TERM LIMITS FOR PRESIDENT

BUDGETARY PROCESS

FEDERAL RESERVE & NATIONAL BANK

SIZE OF HOUSE OF REPRESENTATIVES

POLITICAL PARTIES

BUREAUCRATIC AGENCIES

THE FIRST LADY'S POLITICAL POWER

METHODS OF ELECTING OFFICIALS UNDER THE ORIGINAL 1788 CONSTITUTION

OFFICE	DIRECTLY ELECTED?	METHOD	NOTES
PRESIDENT	NO	ELECTORAL COLLEGE CHOOSES A PRESIDENT BASED ON VOTERS' ADVICE	TODAY, ELECTORAL COLLEGE MIRRORS VOTER PREFERENCE
SENATORS	NO	SENATORS CHOSEN BY STATE LEGISLATURES.	SINCE THE RATIFICATION OF THE 17 TH AMENDMENT, SENATORS ARE DIRECTLY ELECTED.
REPRESENTATIVES TO THE HOUSE	YES	PUBLICLY ELECTED BY POPULAR VOTE IN A SPECIFIC GEOGRAPHIC DISTRICT.	UNDER THE ORIGINAL CONSTITUTION, THIS WAS THE ONLY PUBLICLY ELECTED OFFICE. IT REMAINS PUBLIC TODAY.

*** NOTE: The AP Exam **ALMOST ALWAYS** asks about this topic. Please note that under the original Constitution, only **HOUSE REPS** are publicly elected. As the government's faith in people improved, the public became a bigger part of the electoral process***

MAJORITARIAN POLITICS = HOUSE OF REPRESENTATIVES

ESSENTIAL CONSTITUTIONAL ERA IDEAS

**FEDERALIST PAPER #10:
JAMES MADISON**

**WARNS AGAINST THE
DANGERS OF FACTIONS
AND THE TYRANNY OF
THE MAJORITY.**

**MINORITIES NEED
PROTECTION FROM
GOVT**

**FEDERALIST PAPER #51
JAMES MADISON**

**3 BRANCHES OF GOV'T.
"IF MEN WERE ANGELS,
NO GOV'T WOULD BE
NEEDED"**

**ROLE OF GOV'T IS TO
PROTECT LIBERTY**

**WALL OF SEPARATION
DOCTRINE
THOMAS JEFFERSON**

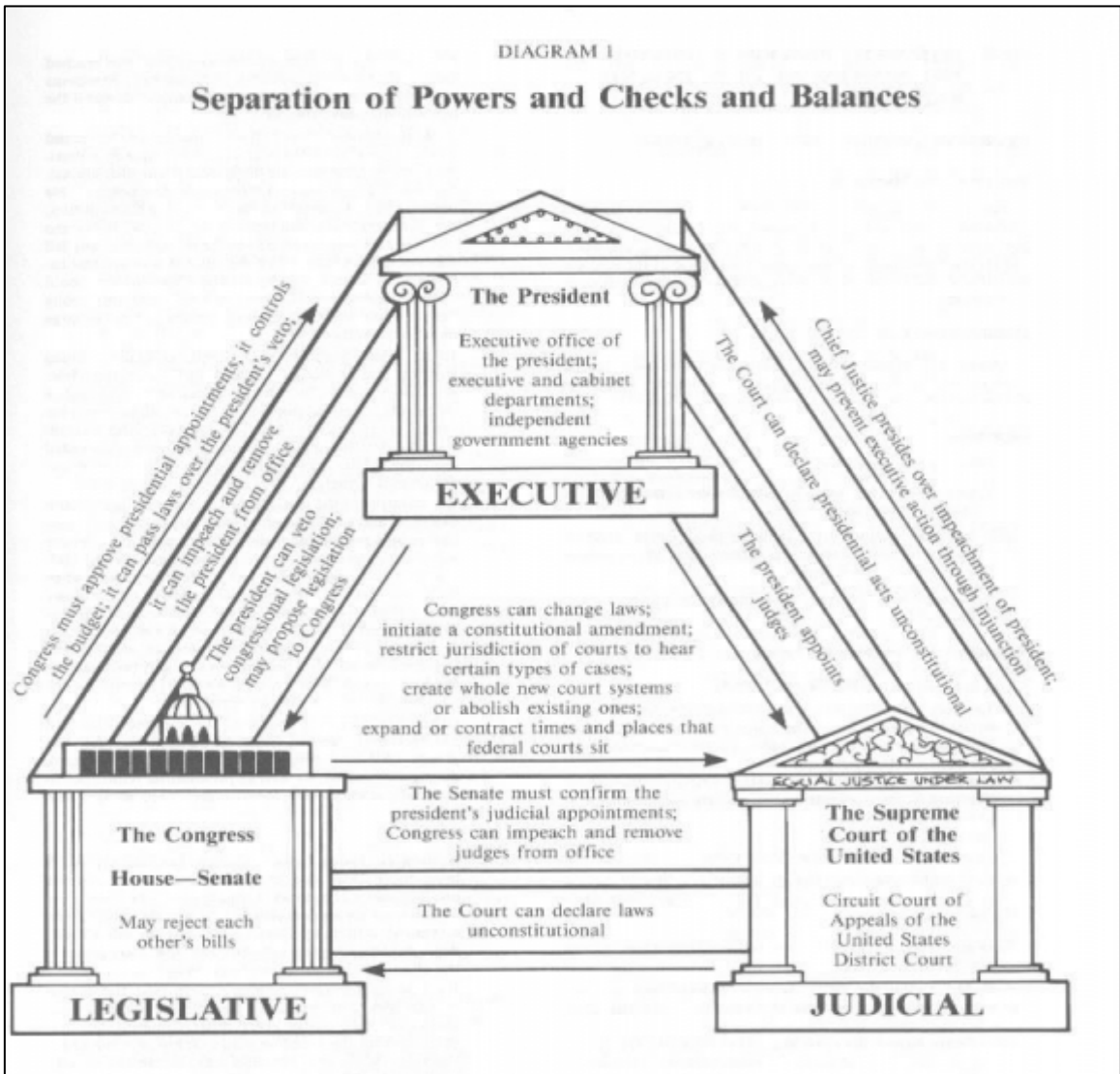
**THERE SHOULD BE A
"WALL OF SEPARATION"
BETWEEN RELIGION AND
GOV'T.**

NOT IN CONSTITUTION

**WASHINGTON'S
FAREWELL ADDRESS**

**WARNED AGAINST THE
DANGERS OF POLITICAL
PARTIES AND
ENTAGLING ALLIANCES.**

CHECKS AND BALANCES



THE GOALS OF CHECKS AND BALANCES:

- 1) PREVENT TYRANNY THROUGH CONCENTRATION OF POWER
- 2) SLOW DOWN THE LEGISLATIVE PROCESSES

FEDERALISM

The Separation of Power between
the State and Central
Governments.

LAYER CAKE FEDERALISM:

- AKA “Dual Federalism”
- Roles of state and central gov’t are clearly defined
- State and central gov’ts are sovereign in their realms
- System characterized by tension

INFLUENCED BY THE NULLIFICATION CRISIS AND SEVERAL SUPREME COURT CASES THAT CAUSED TENSION BETWEEN STATES AND THE PRESIDENT, DUAL FEDERALISM WAS PREVALENT FROM 1789-1930

MARBLE CAKE FEDERALISM

- AKA “Cooperative Federalism”
- Central, State and Local Gov’ts cooperate to solve common problems.
- Power is shared between all levels of government.
- Characterized by Cooperation

INFLUENCED BY FDR’S ACTIVIST APPROACH DURING THE GREAT DEPRESSION, COOPERATIVE FEDERALISM HAS BEEN PREVALENT FROM THE 1930’S TO PRESENT DAY.

DEVOLUTION: THE SLOW AND STEADY TRANSFER OF POWER BACK TO THE STATES

REFINING FEDERALISM

The following events helped refine the relationship between the state and central gov't: (Central Gov't ABOVE State Gov'ts)

McCulloch v. Maryland - Supreme Court Case that denied states the power to tax the federal government. "The power to tax is the power to destroy." Reinforced supremacy clause.

Gibbons v. Ogden- Supreme Court Case that confirmed the federal gov't right to regulate interstate trade disputes. Reinforced supremacy clause and commerce clause.

Nullification Crisis: During Jackson's presidency, South Carolina threatened to nullify (overrule) a federal law. South Carolina was unable to do so. Reinforced Supremacy Clause.

10th Amendment: Reserved all powers not specifically enumerated to the central government in the Constitution to the States and to the people. Not consistently interpreted by Supreme Court.

14th Amendment: Held state governments accountable for guaranteeing the rights given to citizens in the Bill of Rights. Caused Selective Incorporation. States cannot violate your rights. Reinforced Supremacy Clause

FISCAL FEDERALISM

Fiscal Federalism: national government spending, taxation, and grants provided to the state and local governments



Categorical Grants

- Given for a specific project (Building a Bridge)
- Competitive amongst states and localities



Block Grants

- Broad focus (Improving Infrastructure)
- Allocated based on a formula



Unfunded Mandates

- Demands made by central gov't (national elections)
- States and localities must cover cost

CATEGORICAL GRANTS **DECREASE** THE STATES' POWER

- Give Central Gov't influence over how money is spent

BLOCK GRANTS **INCREASE** STATES' POWER

- Give states the power to decide how money is spent

UNFUNDED MANDATES **DECREASE** THE STATES' POWER

- Make states accountable for Federal regulations if they want Federal Funding