

We the People

of the United States, in order to form a more perfect Union, establish Justice, insure domestic Tranquillity, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do hereby constitute and establish this Constitution for the United States of America.

Article 1

Section 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Section 2. The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and seven Years a Citizen of the United States, and who, when elected, shall not have been seven Years a Citizen of the State in which he shall be chosen.

The House of Representatives shall elect their Speaker and other Officers; and shall have the sole Power of Impeachment. The Senate shall elect their President and Vice President, and shall have the sole Power of trying all Impeachments.

Section 3. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for a Term of six Years; and each Senator shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

Section 4. The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and the Electors in each State, shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

Section 5. The Senate of the United States shall be organized on the 17th day of September next, and shall have the sole Power of trying all Impeachments.

Section 6. The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and the Electors in each State, shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

Section 7. The Congress shall assemble on the 17th day of September next, and shall have the sole Power of trying all Impeachments.

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American Federalism

Chapter 3: American Federalism



- Defining Federalism
- Constitutional Structure of American Federalism
- National Courts and Federalism
- National Budget as a Tool of Federalism
- Politics of Federalism

Defining Federalism

Federalism

- Dual federalism
- Cooperative federalism
- Marble cake federalism
- Competitive federalism
- Permissive federalism
- New federalism

Dual Federalism (1800-1932): The Taney Court, Slavery, & the Civil War

- **Dual federalism** – national and state powers are equal with distinct spheres of responsibility
 - Layer cake
- The *Dred Scott* decision
 - Congress cannot regulate slavery
- **Nullification**
- Post Civil War – volatile relationship between national and state governments
 - Commerce, Anti-Trust, and Sixteenth and Seventeenth Amendments

Cooperative Federalism (1932-1980): The Growth of National Government

- **Cooperative federalism** – federal government leads national agenda with state cooperation
 - Marble Cake
- **New Deal** of the 1930s
- Great Society of the 1960s
- Federal government makes **grants** to states



New Trends in Federalism (1980-)

- Return to state's rights, or **New Federalism**
- The Reagan Revolution
 - **Block grants**
- Devolution
 - Contract with America
- George W. Bush
 - **Preemption**
- The Supreme Court
 - Up to Roberts!

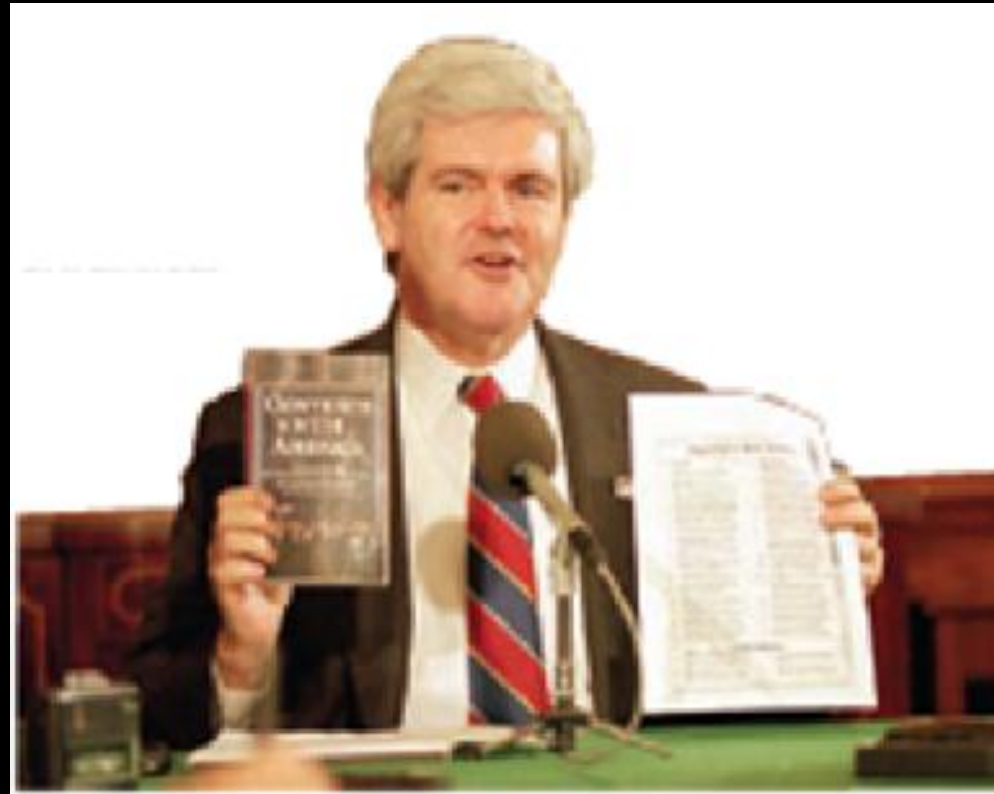


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Attempts to Balance National and State Power

■ Redistributive and Developmental Policies

- “Pork” problems
- The No Child Left Behind Act of 2001
- Patient Protection and Affordable Care Act of 2010



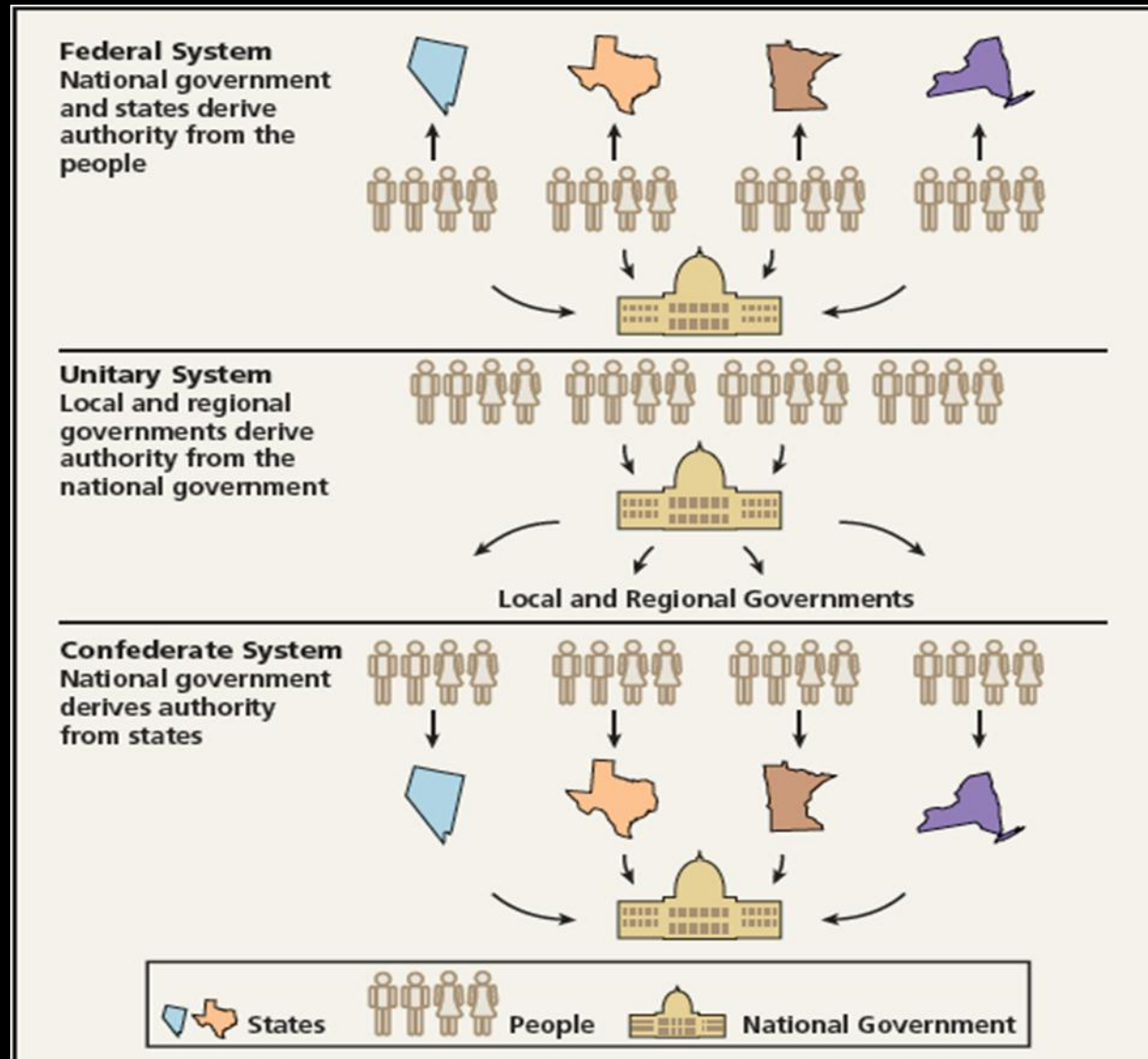
■ Progressive Federalism

- “Laboratories of democracy”

Defining Federalism

Alternatives to Federalism

- Unitary system
- Confederation



Defining Federalism

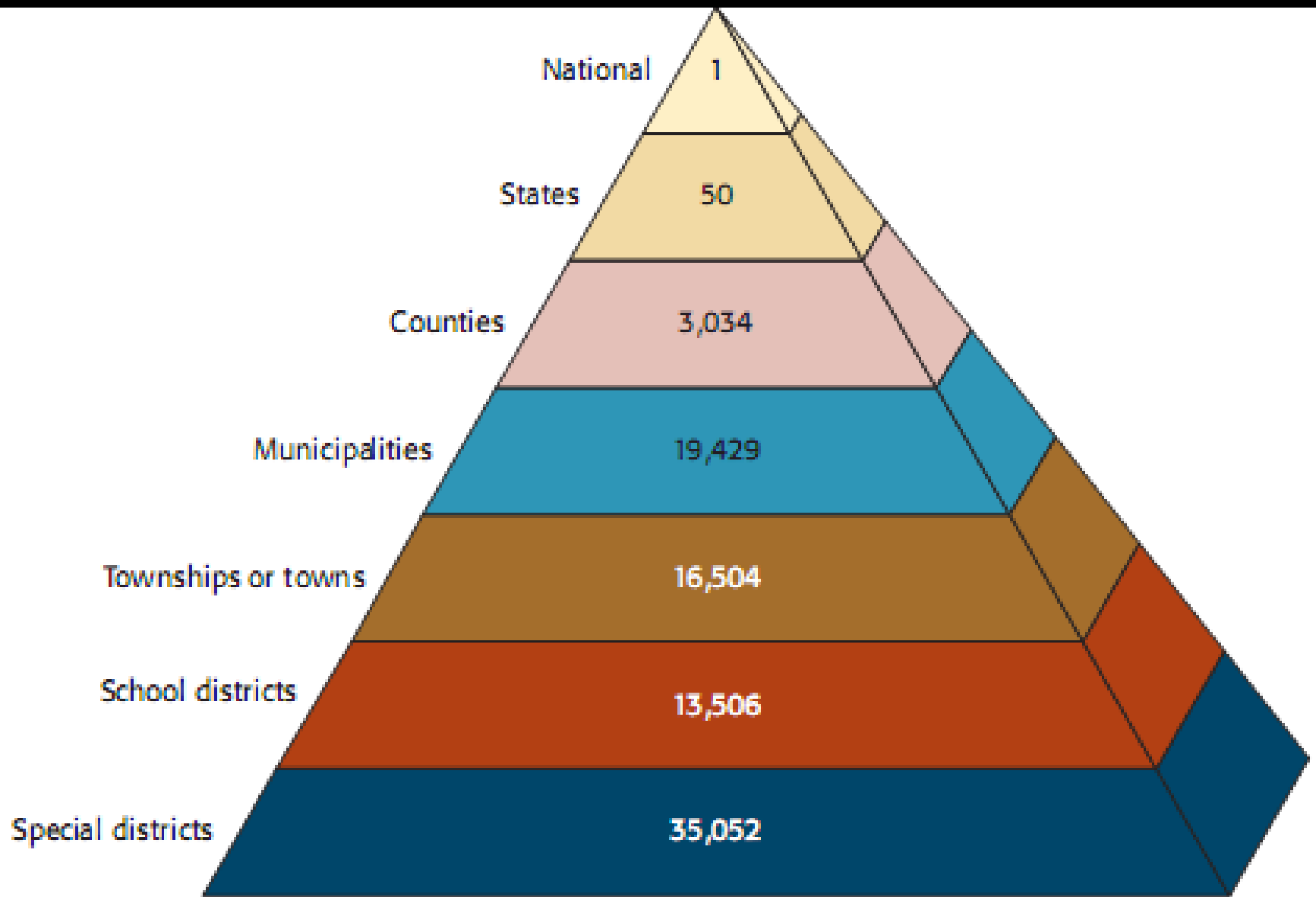
Why Federalism?

Advantages

- Checks the growth of tyranny
- Allows unity without conformity
- Encourages experimentation
- Provides training and develops leaders
- Keeps government closer to the people

Disadvantages

- Difficult to respond quickly to national problems
- Difficult to hold elected officials accountable
- Lack of uniformity leads to conflict
- Variation in policies creates redundancies and inefficiencies



The Constitutional Structure of American Federalism

- Powers of national government are delegated to it.
- National government is supreme.
- State governments have reserved powers.
- Both levels of government are denied some powers.

The Constitutional Structure of American Federalism

Powers of the National Government

- **Delegated** – powers explicitly given to the legislative, executive, and judicial branches
- **Implied** – necessary and proper clause
- **Inherent** – do not depend of constitutional grants but grow out of the very existence of the national government

The Constitutional Structure of American Federalism

Other National Powers

- The National Supremacy Article
- The War Power
- The Power to Regulate Commerce
- The Power to Tax and Spend

The Constitutional Structure of American Federalism

Powers of the State

- **Reserve** – 10th Amendment grants powers not exclusive to federal government to the states so long as they don't conflict with national law
- **Concurrent** – powers shared by both levels

How is governmental power distributed in the federal system?

NATIONAL POWERS (ENUMERATED POWERS)



Collect duties, imposts, and excises
Regulate commerce with foreign nations, among the states, and with Indian tribes
Establish rules of naturalization
Coin money
Establish a post office
Declare and conduct war
Provide for an army and a navy
Make laws necessary and proper to carry out Article I powers

CONCURRENT POWERS



Tax
Borrow money
Establish courts
Make and enforce laws
Charter banks and corporations
Spend money for the general welfare

STATE POWERS (RESERVED POWERS)



Set times, places, and manner of elections and appoint electors
Ratify amendments to the U.S. Constitution
Take measures for public health, safety, and morals
Exert powers the Constitution does not delegate to the national government or prohibit the states from using
Establish local governments
Regulate commerce within a state

The Constitutional Structure of American Federalism

Limited Powers

States

- Making treaties
- Interfering with commerce of other nations
- Coining money
- Taxing imports or exports
- Taxing foreign ships
- Keeping troops in time of peace
- Engaging in war

National

- Refrain from exercising its powers in such a way as to interfere substantially with the states' abilities to perform their responsibilities

The Constitutional Structure of American Federalism

Interstate Relationships

- Full Faith and Credit
- Interstate Privileges and Immunities
- Extradition
- Interstate Compacts

TABLE

3-1

The Constitutional Division of National and State Powers

Examples of Powers Delegated to the National Government

Regulate trade
and interstate
commerce

Declare war

Create post offices

Coin money

Examples of Powers Reserved for State Governments

Create local
governments

Police citizens

Oversee primary
and elementary
education

Examples of Concurrent Powers Shared by the National and State Governments

Impose and collect taxes and fees

Borrow and spend money

Establish courts

Enact and enforce laws

Protect civil rights

Conduct elections

Protect health and welfare

Federalism and the Marshall Court

Sets new balance of state and national powers

- ***McCulloch v. Maryland*** (1819)
 - Concerns the power of states to tax the national government
- ***Gibbons v. Ogden*** (1824)
 - Concerns congressional power to regulate interstate commerce
- ***Barron v. Baltimore*** (1833)
 - Concerns the protections of the Bill of Rights – Does the Bill of Rights protect people from the actions of state government?

The National Courts and Federalism

The Great Debate

Centralists

- Abraham Lincoln, FDR
- Reject the idea that the Constitution is an interstate compact
- National government is the government of all the people

Decentralists

- Antifederalists, Thomas Jefferson, Ronald Reagan
- Constitution is a compact among sovereign states
- National government should not interfere with activities of the states
- Devolution revolution, states' rights

The National Budget as a Tool of Federalism

- Supply state and local governments with revenue
- Establish minimum national standards
- Equalize resources among the states
- Attack national problems while minimizing the growth of federal agencies

The National Budget as a Tool of Federalism

Types of Federal Grants

- Three types of grants used
 - Categorical-formula
 - Project
 - Block
- The Politics of Federal Grants
- Unfunded Mandates

The Politics of Federalism

- Growth of the National Government
- Future of Federalism

