

Intro to the U.S. Constitution

- Brief Constitutional History
- Gov't Structure Per the Constitution
- Principles That Shape the Constitution:
 - Federalism
 - Separation of powers
 - Natural rights
 - Popular sovereignty

Brief Constitutional History



Jamestown (1607)

1. Colony established by Virginia Company of London, “indentured” workers went to America.
2. Struggles with Native Americans and starvation.
3. Success with tobacco.
4. Marshall law gives way to House of Burgesses (1619)

Plymouth (1620)

1. Religious immigration by Puritans (Pilgrims)



Mayflower Compact

[H]aving undertaken, for ... advancement of the Christian faith, and honor of our king and country, a voyage to plant [a colony, we do ... solemnly and mutually in the presence of God, and one of another, covenant and combine our selves together into a civil body politic, for our better ordering and preservation and furtherance of the ends aforesaid; and ... to enact, constitutions, and offices, from time to time, as shall be thought most ... convenient for the general good of the colony, unto which we promise all due submission and obedience.

Slavery: Forced Immigration

- Slavery began in Jamestown in 1619 when a Dutch ship sold some of its African cargo as servants to labor-starved planters unable to obtain willing workers from the Powhatans.
- African slaves traded with African coastal tribes in return for items such as rum, guns and gun powder.
- Approximately 300 to 400 thousand black slaves kept streaming in until about 1810.

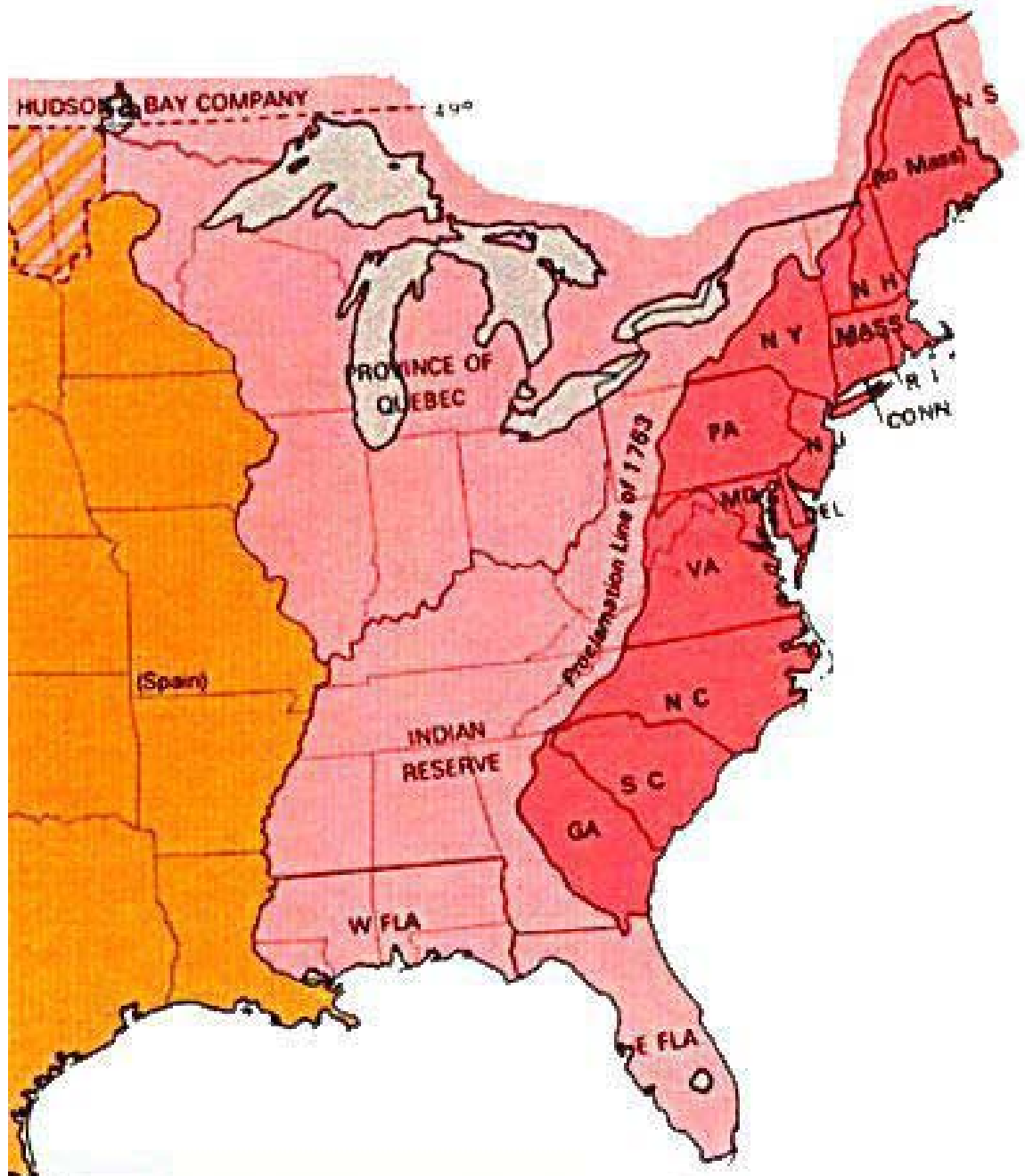
Development of Colonial Assemblies

1. Origin of self-gov't: Many English colonists had participated in government at home, and they carried this tradition to America.
2. In Britain, Parliament was growing stronger in relation to King. American assemblies followed:
 - In colonies, King represented by governors, who commanded the militia, could recommend some assembly members, appoint judges, approve land grants.
 - As in Britain, colonial assemblies began insisting on controlling taxes and on being consulted on appointments to public office.

Colonial America before the French and Indian War (1754-1763)



Colonial America in 1763 after the Treaty of Paris



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GC1

Where was France in NAM at beginning/end of war?

Who were colonists at beginning of war?

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Sugar Act, Stamp Tax, Quartering Act (1764-1766)

Townsend Acts (1767)



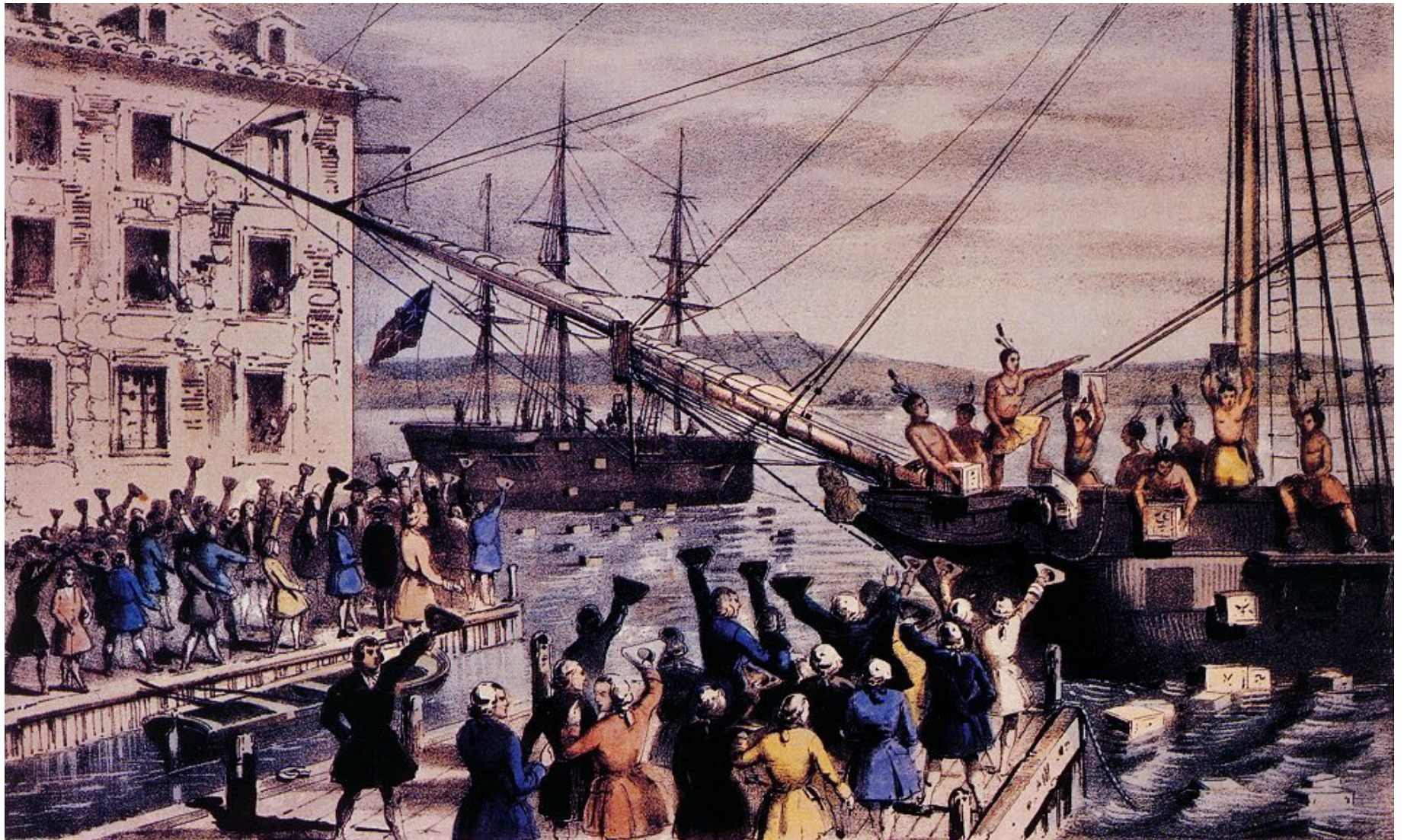
The Boston Massacre (1770)



Boston Tea Party (1773)

1. British government granted the East India Company a monopoly to export tea from Britain, harming colonial merchants.
2. Colonists protested by dumping the East India Tea Company's tea into Boston Harbor.

Boston Tea Party (cont'd)



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GC2

Rel b2n Proclamation Line & Appalaction Mtns?

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First Continental Congress (Philadelphia, 1774)

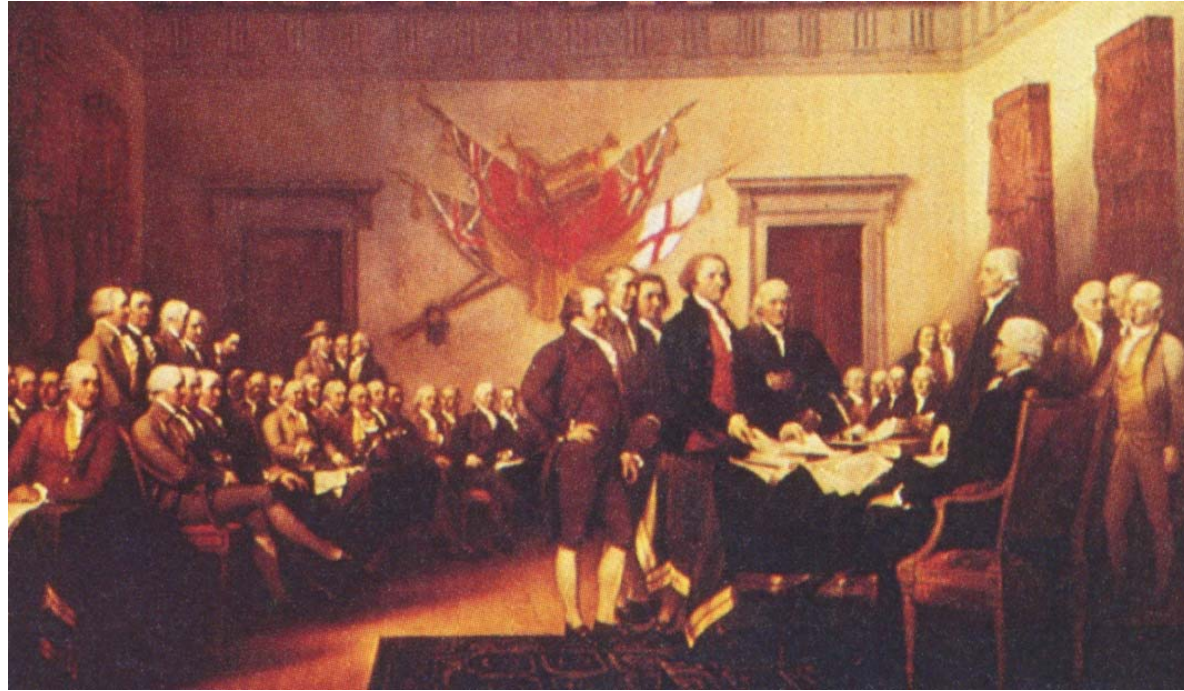
“Declaration of Resolves,” articulating grievances over the Intolerable Acts & a concept of colonial government:

Resolved, That ... as the English colonists are not represented, and from their local and other circumstances, cannot be represented in British parliament, they [the colonists] are entitled to a free and exclusive power of legislation in their several provincial legislatures, where their right of representation can alone be preserved, in all cases of taxation and internal polity, subject only to the negative of their sovereign.... But ... we cheerfully consent to the operation of such acts of the British Parliament as are bona fide, restrained to the regulation of our external commerce....

Revolutionary War Begins: Battle of Lexington & Concord (1775)



Second Continental Congress (1775-)



- Creates Continental Army. George Washington commander-in-chief.
- Adopts Declaration of Independence, penned by Thomas Jefferson.

Declaration of Independence (1776)

“We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable 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.”

“[W]henever any Form of Government becomes destructive ... it is the Right of the People to alter or 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.”



1. First constitution.
2. Created just congress, no executive or judiciary.
3. 1 vote per state. States independent.
4. Reaction to British system, in which all power vested in central gov't.

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GC4

Who were main drafters?

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The Last Major Battle: Yorktown (1781)



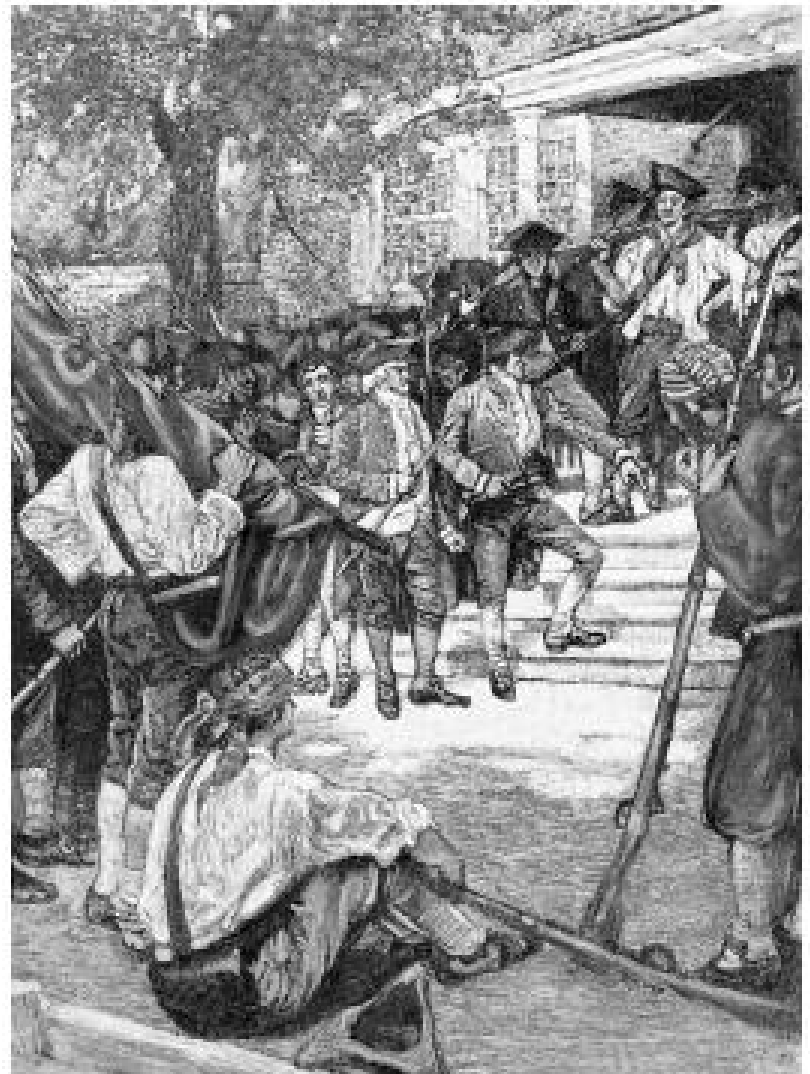
French forces and Continental Army win the surrender of a British army under Lord Cornwallis.

Problems under the Articles of Confederation

1. Congress no tax power.
2. Congress no power to regulate interstate commerce or ensure a unified monetary system.
3. States conducted foreign relations without regard to neighboring states' needs or wants.
4. States free to legislate on national matters.

Shays' Rebellion (1786-7)

1. Daniel Shays led Massachusetts farmers' rebellion to prevent foreclosures.
2. Inability of Congress to deal with rebellion showed Articles of Confederation's weakness.
3. James Madison suggested conference in Philadelphia on constitutional revisions.



Constitutional Convention (1787)



George Washington

1. Born into Virginia planter family.
2. Fought in French and Indian War
3. Elected Commander in Chief of the Continental Army (1775)
4. Presided over constitutional convention
5. 1st President (1789-1797)



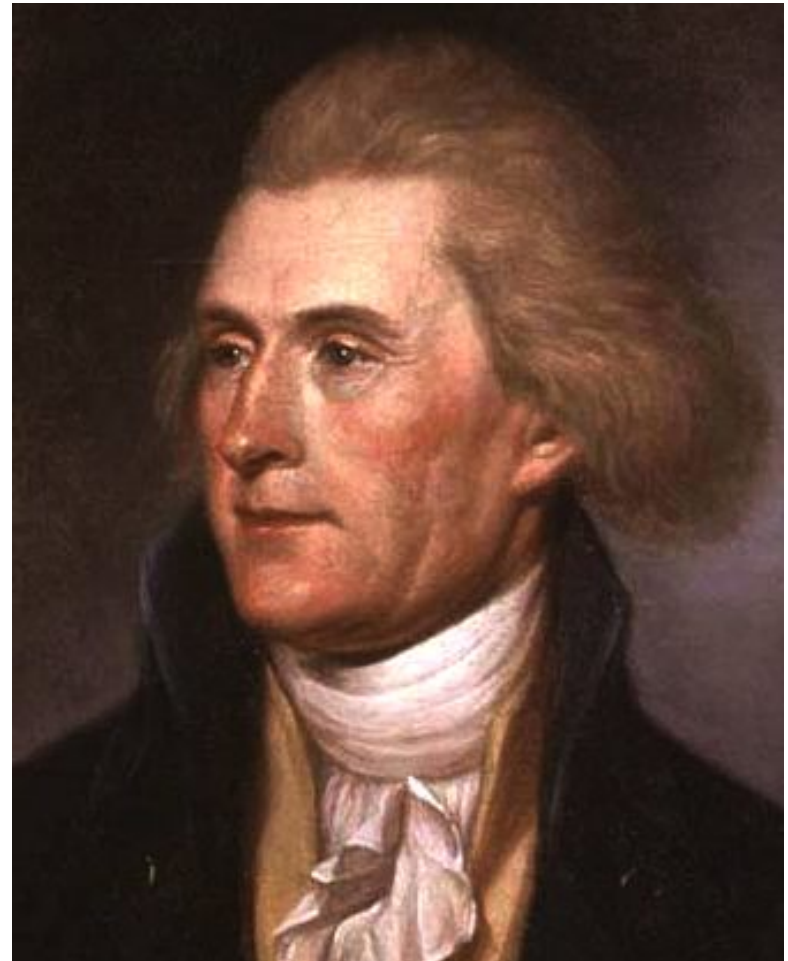
John Adams

1. Born into modest family in Massachusetts.
2. Lawyer
3. Drafted Mass. Constitution. But not at Constitutional convention because serving as envoy in Europe.
4. Federalist
5. 2nd President (1797-1801)



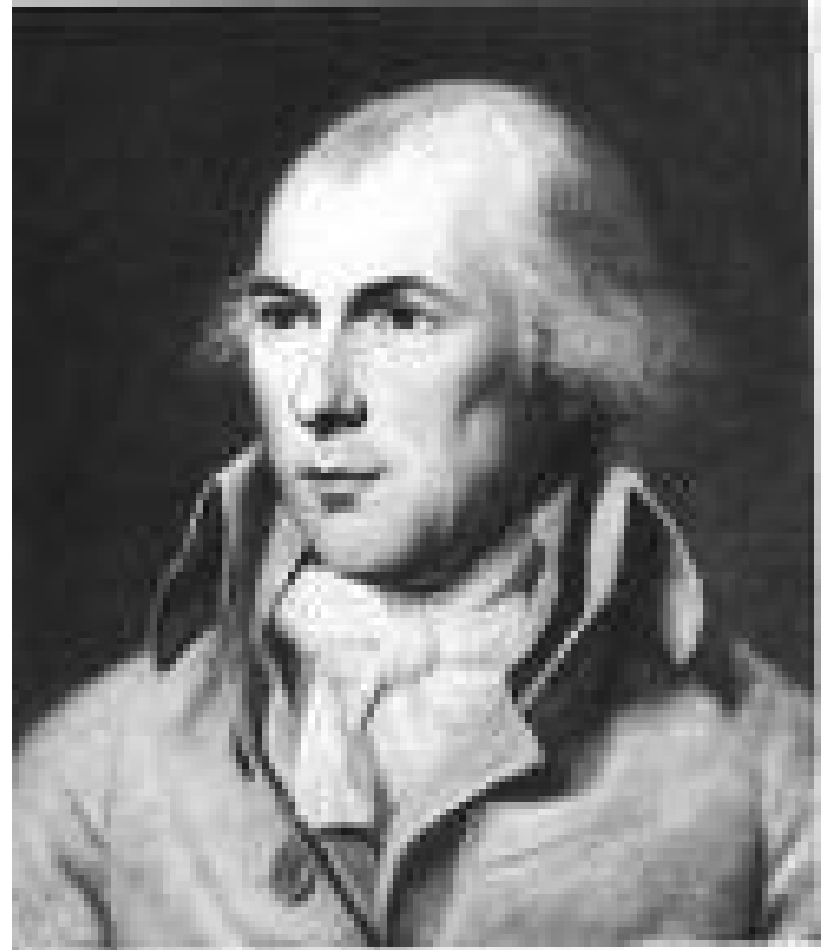
Thomas Jefferson

1. Virginia plantation owner.
Slaveholder who wrote about the evils of slavery.
2. Penned the Declaration of Independence.
3. Not at constitutional convention because serving as envoy to France.
4. Leader of the Republican Party: Opposed Federalist plans for strong nat'l gov't. Championed states rights as sovereigns.
5. 3rd President (1801-1809)



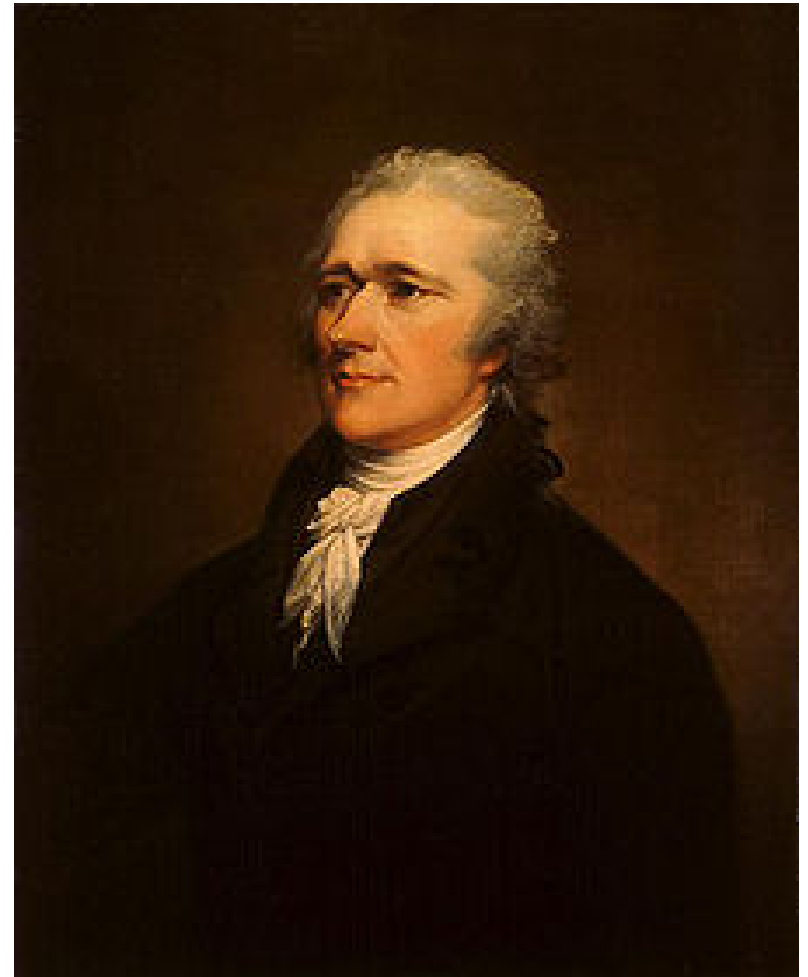
James Madison

1. Suggested convention in Philadelphia
2. “Architect of the Constitution”
3. Authored *The Federalist Papers* (with Alexander Hamilton & John Jay)
4. Jefferson’s protégé and his Sec’y of State.
5. 4th President of the U.S. (1809-1817)

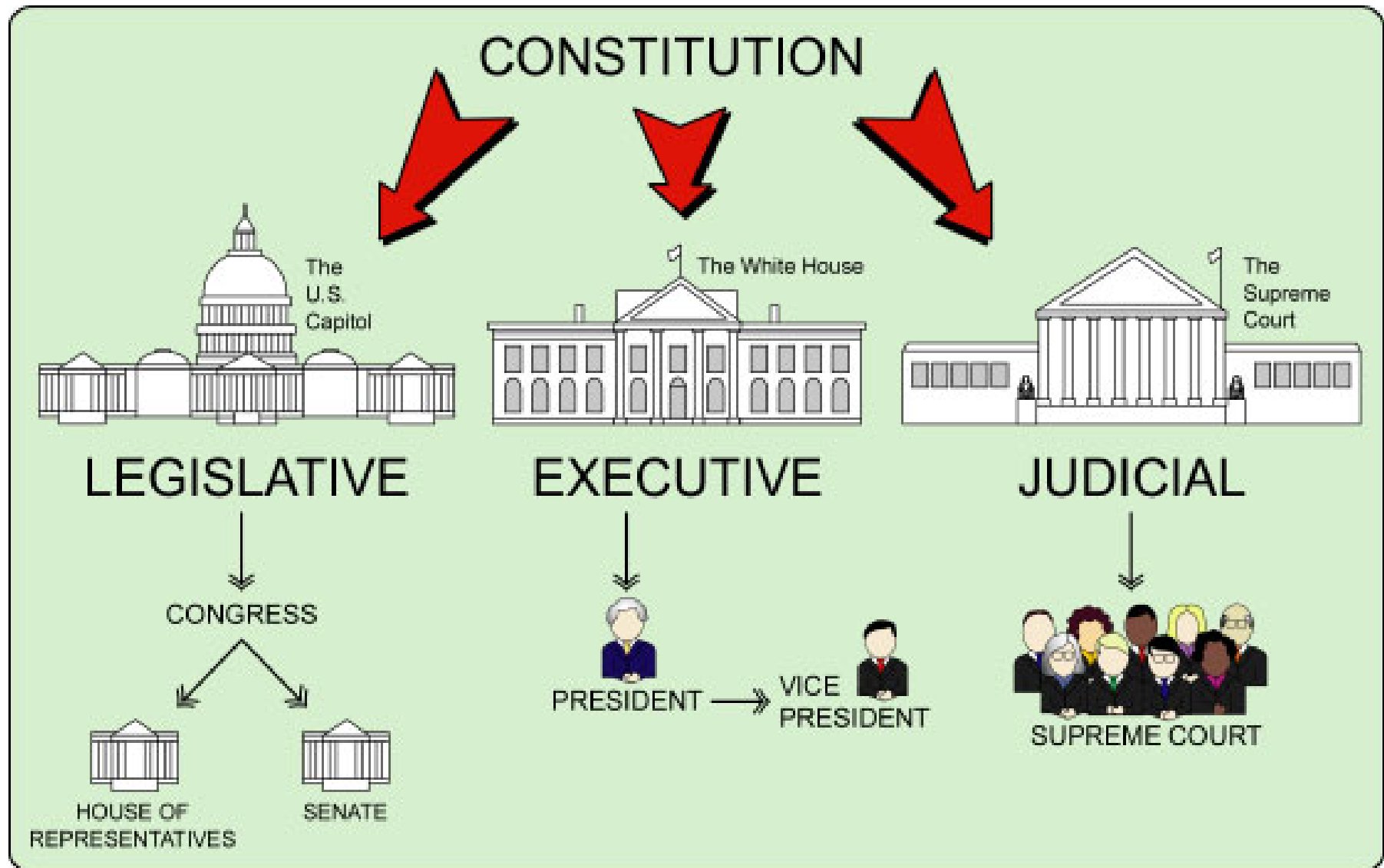


Alexander Hamilton

1. New York lawyer
2. Sr. aid to Washington during Revolutionary War
3. Delegate to constitutional convention.
4. Authored *Federalist Papers* (with James Madison & John Jay).
5. Pres. Washington's Secretary of the Treasury, establishing nat'l bank.
6. Founder of Federalist Party, arguing for strong central gov't & close ties with Britain.
7. Intense rivalry with Jefferson's VP Aaron Burr led to duel, in which Hamilton was mortally wounded.



Government Structure Per the Constitution



Legislative Branch

House of Representatives

- a. 435 representatives, apportioned according to state population.
- b. Representatives subject to reelection every 2 years.

Senate

- 100 senators, 2 from each state.
- Senators subject to reelection every 6 years.



Why a Bicameral Legislature?

- Virginia Plan: Representation based on state population.
- New Jersey Plan: Each state should be equally represented.
- The Great Compromise:
 - In House of Representatives, members apportioned according to state population.
 - In Senate, each state would have equal representation.

Three-Fifths Compromise

- Fundamental difference between slave & non-slave states.
- Compromise result: 5 slaves counted as 3 persons for apportionment of House of Representatives and taxation.
 - Supported by slave states to increase representation
 - Supported by non-slave states that advocated principle of property representation
- Left slavery question unresolved.

Legislative Power

Granted Powers: “Congress shall have the Power To...” (Art. 1, § 8)

Enumerated powers: E.g., issue money, establish a postal system, create federal courts, raise an army & navy, declare war, collect taxes, spend money, regulate interstate commerce. (Art. 1, § 8).

Implied powers: “Congress shall have the Power ...To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers.” (Art. 1, § 8, cl. 18).

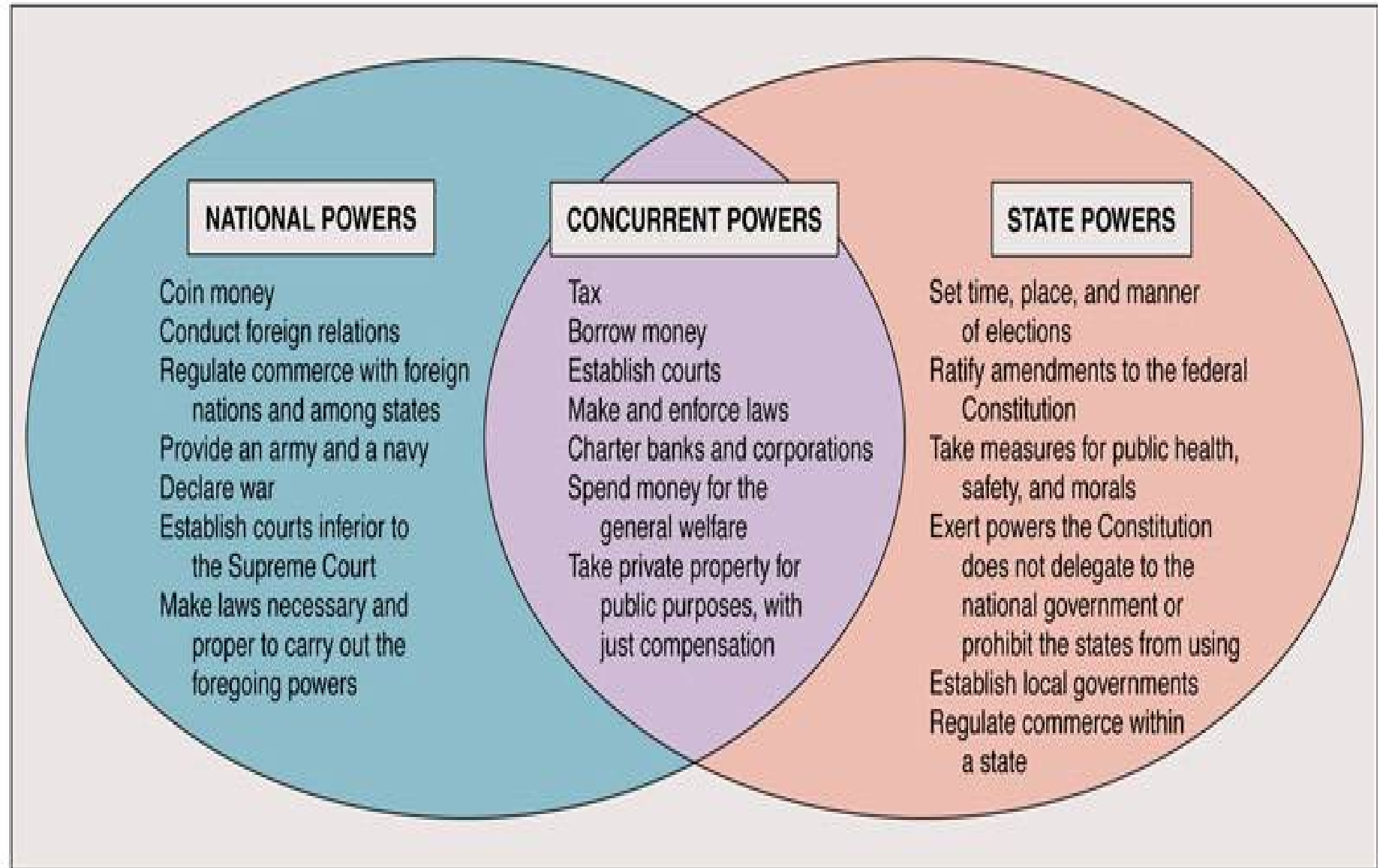
Reserved Powers:

“The powers not delegated to the United States [government] by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”
(Amend. X)

Concurrent powers:

Powers held to some extent by both the federal and state govts (e.g., ability to tax and spend for general welfare).

Figure 3.3 The Distribution of Governmental Power in the Federal System



The Supremacy Clause

(dealing with conflicts in concurrent powers)

“This Constitution, and the Laws of the United States which shall be made in Pursuance thereof ... shall be the supreme Law of the Land . . .” (Art. VI)

Executive Branch

- Article II defines the powers and responsibilities of the President:
 - President as Chief Executive
 - Veto Power of the President
 - Presidential Power in Foreign Affairs.



President as Chief Executive

1. President has the “executive Power” and the duty “to take Care that the Laws be faithfully executed.”
2. Appoint with Senate’s “Advice and Consent” ambassadors, judges, officers to staff the executive branch.
3. He may “require the opinion ... of the principal Officer in each of the Executive Departments.”

Veto Power of President

- Veto can be overridden by 2/3 majority of both houses of Congress.

Presidential Powers in Foreign Affairs

- Make treaties with Senate concurrence (2/3 vote).
- “Commander in Chief” of armed forces.

Judicial Branch (U.S. Const. art. III)

“The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.”



How Many Federal Courts?

“The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.”

Federal Courts'

Limited Subject Matter Jurisdiction

“The judicial Power shall extend to all Cases ... arising under this Constitution, the Laws of the United States ... [and] to Controversies between ... Citizens of different States.”

Supreme Court's Original vs. Appellate Jurisdiction

In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the Supreme Court shall have **original** Jurisdiction. In all the other Cases ... the Supreme Court shall have **appellate** Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

Judicial Selection

- Federal judges are appointed for life, subject to “good behavior.”

Ratification & Bill of Rights

1. Constitution said it would take effect upon ratification by 9 of 13 states.
2. Debates focused Federalists (preferred a strong central gov't) v. Antifederalists (preferred a loose association of separate states).
 - Alexander Hamilton & James Madison among the Federalists, publishing *The Federalist Papers*
3. Some concerned that Constitution didn't protect individual rights. To counter Antifederalists' criticism, Madison proposed the Bill of Rights. Five states ratified the Constitution on the condition that a bill of rights be added immediately.
4. Constitution took effect 1789.
5. The Bill of Rights were passed by Congress and ratified by necessary 9 states in 1791.

Process for Amending the Constitution

STEP 1: Amendment Proposed by:



A two-thirds vote of both houses of Congress

OR



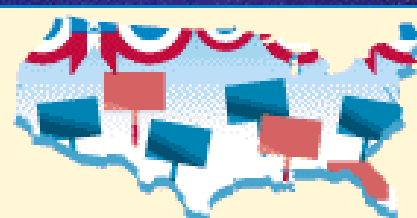
A constitutional convention called by Congress on petition of two-thirds of the 50 states

STEP 2: Amendment Ratified by:



Three-fourths of the 50 state legislatures

OR



Three-fourths of special constitutional conventions called by the 50 states

New Amendment



Key

Used for all amendments except the Twenty-first

Used only for the Twenty-first Amendment (repeal of Prohibition)

Never used

Principles That Shape the Constitution

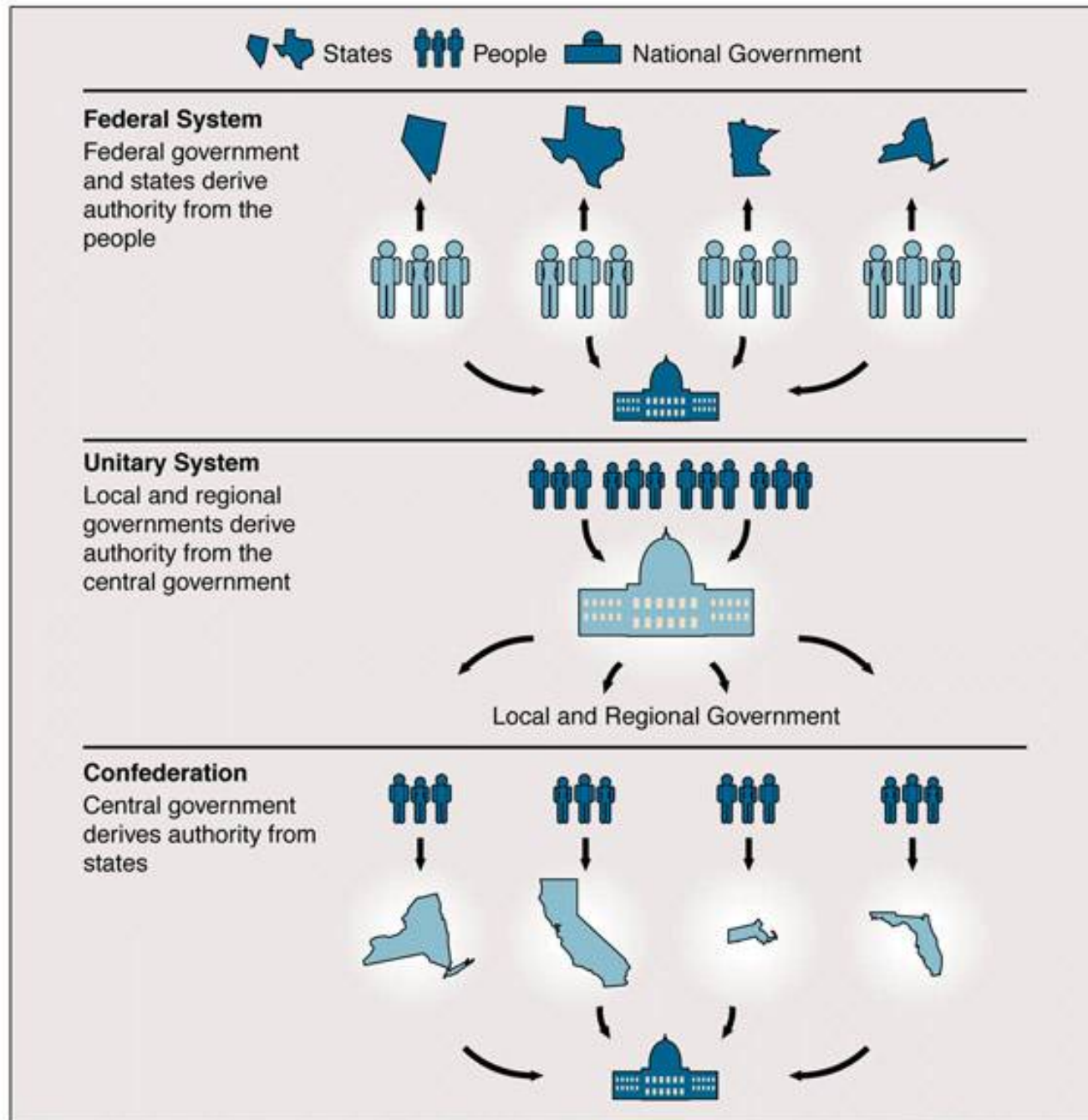
- Federalism
- Separation of powers
- Natural rights
- Popular sovereignty

Federalism

Federalism = power to govern shared by state and national govts.

- Vertical federalism = national-state relationship
- Horizontal federalism = state-state relationship

Figure 3.2 The Federal, Confederation, and Unitary Systems of Government



Debates during the Constitutional Convention & ratification of Constitution:

“Anti-Federalists” feared undue centralization despite Bill of Rights. They pointed to Parliament’s Intolerable Acts.

“Federalists” argued:

- a. Strong national govt needed to regulate interstate commerce and provide defense, as shown by failures under the Articles of Confederacy.
- b. Protects individual rights since neither national govt nor states can act without limitations.
- c. Horizontal federalism would allow other states to intervene if one became tyrannical.
- d. Size of country can make unitary system unwieldy. States can protect local concerns that national govt may overlook.
- e. Diversity of states can make confederation impossible.

Separation of Powers

1. Gov't divided into branches. Each has separate powers.
2. “Checks & balances”: In some areas, action requires branches to cooperate, so each one branch can “check” (restrain) another. Ideally, this keeps the branches’ power “balanced.”
3. No person can be both an executive officer and a member of Congress.

Examples of “Checks and Balances”

- Veto: Congress has the power to make laws, but President may veto legislation passed by Congress, but veto can be overturned by a 2/3 vote of both houses.
- Impeachment: Congress has the power to impeach and remove the President and members of the Judiciary for committing “high crimes and misdemeanors.”
- Appointment of Judges: Nominated by President and confirmed by Senate.

- Judicial review: Judiciary can hold a law to be unconstitutional but Congress and states can amend Constitution.
- War: President is commander in chief but only Congress can declare war
- President may make a treaty, but only if 2/3 of Senate provides its advice and consent.

Historical Origins of Separation of Powers

- John Locke, *Second Treatise of Government* (1689)
 - “The *Legislative* Power is that which has a right *to direct* how *the Force of the Commonwealth* shall be [employed] for preserving the Community and the Members of it [but] the same Persons who have the Power of making Laws, [should not] have also in their hands the power to execute them, whereby they may **exempt themselves** from Obedience to the Laws they make.



Separation of Powers: American Proponents

- James Madison, *The Federalist* 47 (1788)
 - “No political truth is certainly of greater intrinsic value or is stamped with the authority of more enlightened patrons of liberty than this: the accumulation of all powers legislative, executive and judiciary in the same hands, whether of one, a few or many, and whether hereditary, self appointed, or elective, may justly be pronounced the very definition of **tyranny**.”

Natural Rights

1. Original “state of nature” included God’s grant of “natural rights” such as life, liberty, property.
2. To avoid anarchy and organize society, people enter into a “social contract”-- giving up some freedoms to a gov’t that in return provides security and protection of “natural rights.”

What are the Advantages and
Disadvantages of a
Separation of Powers?

Popular Sovereignty

1. “We the People . . . do ordain and establish this Constitution.”
2. Popular sovereignty = ultimate political authority rests with the people.
3. Constitution ratified by the people.
4. Day-to-day governance delegated to elected representatives.

5. People retain the inalienable right to alter or abolish their government or amend their Constitution.
6. Reserved powers.