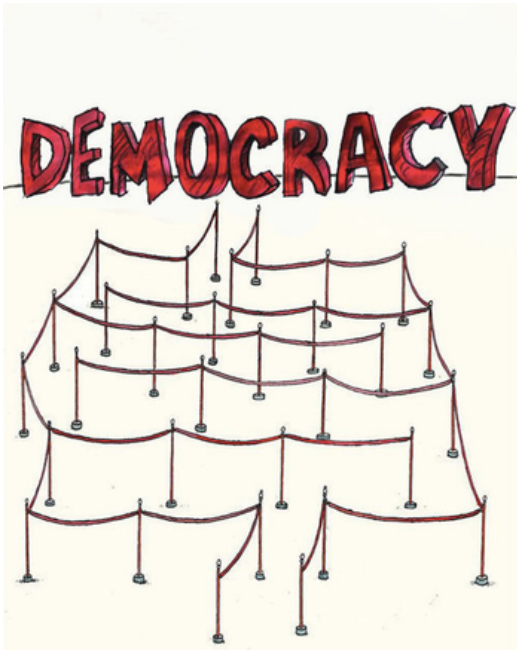


Unit 1 FOUNDATIONS OF DEMOCRACY

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1.1 Ideals of Democracy



ESSENTIALS

1. The U.S. government is based on ideas of limited government, including natural rights, popular sovereignty, republicanism, and social contract.
2. The Declaration of Independence, drafted by Jefferson with help from Adams and Franklin, provides a foundation for *popular sovereignty*, while the U.S. Constitution drafted at the Philadelphia Convention and led by George Washington, with important contributions from Madison and Hamilton, and members of the “Grand Committee,” provides the blue print for a unique form of political democracy in the U.S.

What are the challenges when building a democratic government?

The U.S. government is based on ideas of limited government, including natural rights, popular sovereignty, republicanism, and social contract.

Provide a key *example* from American government for each of the following terms:

Limited government:

Natural rights:

Popular sovereignty:

Republicanism:

Social Contract:

Put into your own words the following *ideals* found in our **Declaration of Independence**:

Endowed...with certain unalienable rights

Life, Liberty and the pursuit of Happiness

Consent of the governed

Right...to alter or to abolish it

Using the **U.S. Constitution (1787)**, what you already know and appropriate search engines answer the following questions:

1. The overarching themes of our form of government are: (1) *popular sovereignty*, (2) *separation of powers*, and (3) *civil liberties*. Explain how EACH are specifically exemplified in our Constitution.
2. Taking a casual glance at the Constitution, which branch was intended to be MOST powerful? LEAST?
3. Collectively, the first ten amendments to the U.S. Constitution are referred to as . . . ?
4. Which amendments are typically classified as “The Civil War amendments”? How did they dramatically change the original document?

CONCEPT APPLICATION QUESTION

The American intelligentsia of the revolutionary era—Patriot and Tory both—accepted that the constituent power lay with the people. John Adams, for example, encouraged the Continental Congress in the summer of 1775 to recommend that conventions of the people be called to establish governments for the colonies independent of their English charters. Congress, Adams exhorted, “must realize the theories of the wisest writers and invite the People, to erect the whole Building [of government] with their own hands upon the broadest foundation.” This was proper “for the People were the Source of all Authority and of all Power.” Thomas Paine agreed, arguing that “the body of the people ... undoubtedly had, and still have, both the right and the power to place even the whole authority of the Assembly in any body of men they please.” Regardless of whether they truly agreed or felt backed in to a corner, Tories conceded that “the collective body of the people ... have an inherent right to change their form of government.” The Continental Congress explicitly relied on this power in the Declaration of Independence, in which Jefferson proclaimed that, when government becomes tyrannical, “it is the right of the people to alter or to abolish it, and to institute a new government,...and to provide new guards for their future security.”

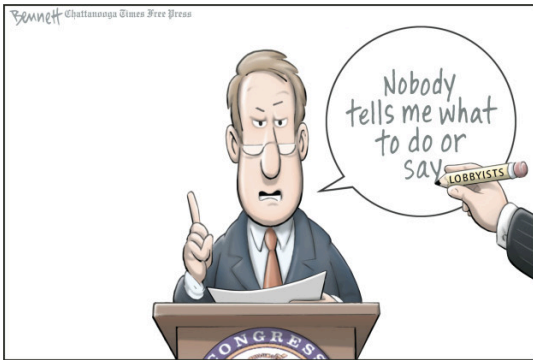
Source: Andrew G.I. Kilberg, *We the People: The Original Meaning of Popular Sovereignty*, Virginia Law Review, September 2014

- A. Describe the revolutionary era concept of popular sovereignty as stated in the scenario.
- B. In the context of the scenario, explain why the partisan divide between Patriot and Tory agreed that constituent power lay with the people.
- C. Explain why the American intelligentsia of the revolutionary era built a republican form of government rather than a direct democracy.

Unit 1 FOUNDATIONS OF DEMOCRACY

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1.2 Types of Democracy



ESSENTIALS

1. Representative democracies can take several forms along this scale: Participatory democracy/Pluralist democracy/Elite democracy
2. Different aspects of the U.S. Constitution as well as the debate between Federalists and Anti-Federalists in Federalist 10 and Brutus I reflect the tension between the broad participatory and the more filtered participation of the pluralist and elite models.
3. The three models of representative democracy continue to be reflected in contemporary institutions and political behavior.

Should our elected officials do what they think is best or merely represent what “we the people” want? Answer as if you were in Philadelphia in 1787 at the constitutional convention. Would the answer be different today? Explain.

Representative democracies can take several forms along this scale: Participatory democracy/Pluralist democracy/Elite democracy

Provide an advantage and disadvantage for each of the following forms of democracy. Find a contemporary example for each:

Participatory

Advantage

Disadvantage

Example

Pluralist

Advantage

Disadvantage

Example

Elite

Advantage

Disadvantage

Example

What form of democracy **is** most prevalent in the United States today?

What form of democracy **should be** most prevalent in the United States today?

**YESTERDAY. TODAY. FOREVER. Use the three models of representative government to answer the following three prompts:
Participatory democracy/Pluralist democracy/Elite democracy**

What model did our Founding Fathers prefer?

What model do you prefer?

Investigate the impact of direct referendums on state and local policy-making. Find examples. Would you like to see national referendums? Explain

CONCEPT APPLICATION QUESTION

At the heart of the elitist theory is a clear presumption of the average citizen's inadequacies. As a consequence, democratic systems must rely on the wisdom, loyalty and skill of their political leaders, not on the population at large. The political system is divided into two groups: the elite, or the "political entrepreneurs," who possess ideological commitments and manipulative skills; and the citizens at large, the masses, or the "apolitical clay," of the system, a much larger class of passive, inert followers who have little knowledge of public affairs and even less interest. The factor that distinguishes democratic and authoritarian systems, according to this view, is the provision for limited, peaceful competition among members of the elite for the formal positions of leadership within the system. As Joseph Schumpeter summarized the theory; "the democratic method is that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote."

Source: Jack L. Walker, *A Critique of the Elitist Theory of Democracy*, The American Political Science Review, June 1966

- A. Describe the presumption behind the primacy of elitist democratic theory.
- B. In the context of the scenario, explain how the presumption discussed in (A) is affected by legal protections found in federal legislation or the U.S. Constitution.
- C. Explain why current Congressional elections are often uncompetitive, and discuss why, in the context of this scenario, this is a problem.

Unit 1 FOUNDATIONS OF DEMOCRACY

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1.3 Government Power and Individual Rights



ESSENTIALS

4. Madison's arguments in *Federalist 10* focused on the superiority of a large republic in controlling the "mischiefs of faction," delegating authority to elected representatives, and dispersing power between the states and national government.
5. Anti-Federalist writings including *Brutus 1* adhered to popular democratic theory that emphasized the benefits of a small-decentralized republic, while warning of the dangers to personal liberty from a large, centralized government.

Do you think the TSA checks in airports have tipped the balance in favor of a strong centralized government over our inalienable individual rights? Investigate what the courts have said.

Madison's arguments in Federalist 10 focused on the superiority of a large republic in controlling the "mischiefs of faction," delegating authority to elected representatives, and dispersing power between the states and national government.

Using **Federalist 10 (1787)**, what you already know and appropriate search engines answer the following questions:

1. What was the intent of the Federalist Papers as written in 1787?
2. What synonyms do we use today for "faction"? What makes "factions" so mischievous?
3. Why does Madison argue that a *large republic* is best able to control the mischief of factions?
4. Madison also argues for the merits of a republic over a direct democracy. What is the difference? According to Madison, what makes a republic better? Do you agree?

Anti-Federalist writings including Brutus 1 adhered to popular democratic theory that emphasized the benefits of a small-decentralized republic, while warning of the dangers to personal liberty from a large, centralized government.

Using **Brutus 1 (1787)**, what you already know and appropriate search engines answer the following questions:

1. Who were the Federalists? Who were the Anti-Federalists? What was their primary dispute?
2. Why did Anti-Federalists fear a strong central government?
3. What contemporary political party best represents Federalist views? What contemporary political party best represents Anti-Federalist views? Explain by using examples.

CONCEPT APPLICATION QUESTION

...This government is to possess absolute and uncontrollable power, legislative, executive and judicial, with respect to every object to which it extends, for by the last clause of section 8th, article 1st, it is declared "that the Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution, in the government of the United States; or in any department or office thereof." And by the 6th article, it is declared "that this constitution, and the laws of the United States, which shall be made in pursuance thereof, and the treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution, or law of any state to the contrary notwithstanding." It appears from these articles that there is no need of any intervention of the state governments, between the Congress and the people, to execute any one power vested in the general government, and that the constitution and laws of every state are nullified and declared void, so far as they are or shall be inconsistent with this constitution, or the laws made in pursuance of it, or with treaties made under the authority of the United States. — The government then, so far as it extends, is a complete one, and not a confederation. It is as much one complete government...

Source: Brutus I, October 18, 1787

- A. Describe the main idea or essential claim.
- B. In the context of the scenario, explain how the claim discussed in (A) can be countered by what actually transpired with the ratification of our new constitution.
- C. Explain how federalism addressed the criticisms found in Brutus 1.

Unit 1 FOUNDATIONS OF DEMOCRACY

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1.4 Challenges of the Articles of Confederation



ESSENTIALS

Specific incidents and legal challenges that highlighted key weaknesses of the Articles of Confederation are represented by the:

- Lack of centralized military power to address Shays' Rebellion
- Lack of tax law enforcement power
- Requirement of unanimity of all states to amend the Articles

State the main idea of the cartoon above.

The Articles of Confederation, our first governing charter, directed the majority of power to the individual states. What would be the advantages and disadvantages of doing this today? Look for contemporary examples.

John Locke wrote, "...political power is that power which every man...has given up into the hands of the society, and therein to the governors...with tacit trust...for their good." But where best to seat that power? **Should political power be found in a central government or more localized governments?**

Do You Believe in Second Chances?

With the signing of the Declaration of Independence in 1776 the new United States of America needed a government charter. The government structure first put in place was created under the Articles of Confederation. Though successful in creating a government empowered to organize the fight against the British the Articles of Confederation was hardly strong enough to carry out the expectations of our young republic. The Shay's Rebellion in Massachusetts in 1787, a grassroots violent uprising rooted in the post-war debt crisis, convinced leaders from almost all of the 13 States that the weaknesses under the Articles of Confederation had to be addressed. In the summer of 1787 55 delegates ended up drafting a new Constitution.

Using the word bank below fill out the comparisons between the two governing charters below. **What were the most important changes?** Investigate which changes were the most difficult to make?

ISSUES:	Articles of Confederation	US Constitution
Legislature		
Members in Congress		
Voting in Congress		
Selection of members		
Executive		
National Judiciary		
New States		
Amendments		
Power to Coin Money		
Taxes		
Ratification		

WORD BANK:

Consent of nine states required, President, One vote per member, Bicameral Congress – House of Representatives/Senate, Unicameral Congress – One House of Representatives, One per state, Appointed by state legislatures, No general national court system, Apportioned by Congress, collected by the states, Admitted with approval of nine states, House members elected by popular vote - Senate appointed by state legislatures, Supreme Court - Congress authorized to establish a national judiciary, Between two and seven per state, Unanimous consent required, National government only, When approved by all states, None, National government and the states, Two senators per state - House determined

Argument Essay

Students of history and political science take for granted today that the U.S. Constitution was written to correct the deficiencies of the Articles of Confederation. We are commonly told that under the Articles our national government ultimately failed.

Develop an argument about whether or not the Articles of Confederation were a failed attempt at national governance.

Use at least one piece of evidence from one of the following foundational documents:

- The Articles of Confederation
- The U.S. Constitution
- Brutus 1

For helps on writing FRQs – SEE “The 12” on citizenu.org

Unit 1 FOUNDATIONS OF DEMOCRACY

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1.5 Ratification of the United States Constitution



ESSENTIALS

- Compromise deemed necessary for adoption and ratification of the Constitution are represented by the: *Great (Connecticut) Compromise/Electoral College/Three-Fifths Compromise/Compromise on the importation of slaves*
- Debates about the self-government during the drafting of the Constitution necessitated the drafting of an amendment process in Article V that entailed either a two-thirds vote in both houses or a proposal from two-thirds of the state legislatures, with final ratification determined by three-fourths of the states.
- The compromises necessary to secure ratification of the Constitution left some matters unresolved that continue to generate discussion and debate today.

1. What is the underlying idea of this cartoon?
2. What makes compromise so difficult? Charles Sumner wrote: "From the beginning of our history the country has been afflicted with compromise." Is compromise an affliction or a blessing?

For each compromise deemed necessary for adoption and ratification of the Constitution report on both sides of the argument and cite the final agreement:

Great (Connecticut) Compromise

Electoral College

Three-Fifths Compromise

Compromise on the importation of slaves

Compromise on the importation of slaves

Debates about the self-government during the drafting of the Constitution necessitated the drafting of an amendment process in Article V that entailed either a two-thirds vote in both houses or a proposal from two-thirds of the state legislatures, with final ratification determined by three-fourths of the states.

Review the Constitutional methods for amending the original document:

Method 1

Method 2



Which method has been used the most? How many times?

The compromises necessary to secure ratification of the Constitution left some matters unresolved that continue to generate discussion and debate today. List two (2) issues that in today's political arena continue to vex our government. Is any compromise in sight for these issues? Why? Why not?

Quantitative Analysis

U.S. Constitutional Amendment (s)	Year Ratified
-----------------------------------	---------------

1, 2, 3, 4, 5, 6, 7, 8, 9, 10	1791
11	1795
12	1804
13, 14, 15	Civil War 1865/1868/1870
16, 17	1913
18	1919
19	1920
20, 21	1933
22	1951
23	1961
24	1964
25	1967
26	1971
27	1992

Use the chart to answer the following questions:

- Identify the Civil War amendments.
- Describe a similarity or difference between the amendments ratified in 1870, 1920 and 1971.
- Explain how the data in the chart reflects the Founders ideals about a working governing charter.

Unit 1 FOUNDATIONS OF DEMOCRACY

1.6 Principle of American Government



ESSENTIALS

1. The powers allocated to Congress, the president, and the courts demonstrate the separation of powers and checks and balances features of the U.S. Constitution.
2. Federalist #51 explains how constitutional provisions of separation of powers and checks and balances control abuses by majorities.
3. Multiple access points for stakeholders and institutions to influence public policy flows from the separation of powers.
4. Impeachment, removal and other legal actions taken against public officials reflect the purposes of checks and balances.

1. What is the underlying idea of this cartoon?
2. Does the principle of the separation of powers infer co-equal branches? Should we be concerned if/when one branch becomes more powerful? What determines the authority of each branch?

James Madison wrote the definitive apology for the separation of powers in the essay Federalist 51 (1788). Read the excerpt below:

"...The interest of the man must be connected with the constitutional rights of the place. It may be a reflection on human nature, that such devices should be necessary to control the abuses of government. But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions..."

...In a single republic, all the power surrendered by the people is submitted to the administration of a single government; and the usurpations are guarded against by a division of the government into distinct and separate departments. In the compound republic of America, the power surrendered by the people is first divided between two distinct governments, and then the portion allotted to each subdivided among distinct and separate departments. Hence a double security arises to the rights of the people. The different governments will control each other, at the same time that each will be controlled by itself..."

What does this excerpt mean in real terms, "...the power surrendered by the people is first divided between two distinct governments, and then the portion allotted to each subdivided among distinct and separate departments..."?

Borrowing from Madison, rewrite a contemporary rationale for the separation of powers.

The events of 9/11 served as a watershed moment in a number of ways. Certainly, the debate over the role of government and its relationship to global security changed. So too did the debate over balancing security with individual liberties.

Investigate the following laws passed by Congress in the wake of 9/11. Assess their effectiveness. Assess their constitutional legitimacy:

USA Patriot Act (2001)

Intelligence Reform and Terrorism Prevention Act (2004)

Foreign Intelligence Surveillance Act Amendments (2008)

Concept Application

If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself. A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions.

This policy of supplying, by opposite and rival interests, the defect of better motives, might be traced through the whole system of human affairs, private as well as public. We see it particularly displayed in all the subordinate distributions of power, where the constant aim is to divide and arrange the several offices in such a manner as that each may be a check on the other -- that the private interest of every individual may be a sentinel over the public rights. These inventions of prudence cannot be less requisite in the distribution of the supreme powers of the State.

But it is not possible to give to each department an equal power of self-defense. In republican government, the legislative authority necessarily predominates. The remedy for this inconveniency is to divide the legislature into different branches; and to render them, by different modes of election and different principles of action, as little connected with each other as the nature of their common functions and their common dependence on the society will admit. It may even be necessary to guard against dangerous encroachments by still further precautions. As the weight of the legislative authority requires that it should be thus divided, the weakness of the executive may require, on the other hand, that it should be fortified. An absolute negative on the legislature appears, at first view, to be the natural defense with which the executive magistrate should be armed.

Excerpt from Federalist #51, February 6, 1788

- A. Describe why a system of checks and balances is necessary, according to this scenario.
- B. Describe how the U.S. Constitution formally addressed your response in (A).
- C. Explain how a branch of government can operate and function today seemingly without being checked.

Unit 1 FOUNDATIONS OF DEMOCRACY

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1.7 Relationship Between States and the Federal Government



ESSENTIALS

1. The exclusive and concurrent powers of the national and state governments help to explain the negotiations over the balance of power between the two levels.
2. The distribution of power between federal and state governments to meet the needs of society changes, as reflected by grants, incentives, and aid programs, including federal revenue sharing, mandates, categorical grants, and block grants.

3. What is the underlying idea of this cartoon?
4. Federalism essentially creates multiple sovereign governments. Our Founding Fathers imagined that by creating more governments there would be less of likelihood that one government would be strong enough to threaten our individual liberty. Two hundred and fifty years later, still worth it? Doesn't federalism create inequalities, legal confusions and inefficiencies? Is federalism necessary?

Federalism

Do the merits outweigh the demerits?

James Bryce listed the following arguments on behalf of federalism:

1. Federalism promotes national unity while permitting local "diversities" to continue.
2. Federalism prevents the rise of despotic central government and does not threaten "the private liberties of the citizen." The states are "bulwarks" against the central encroachment of the federal government.
3. Federalism "stimulates" the interest of citizens in local affairs, thereby sensitizing the people to their civic duties.
4. Federalism encourages "experimentation" and reforms in political life that might not be tried initially at the federal level. In short, new political policies can filter up from the local-state level to the federal level. (Bryce, James. The American Commonwealth. New York: Macmillan. 1897)

Detractors on the other hand, argue that federalism has number of disadvantages:

1. Federalism encourages wasteful duplication of services between the levels of government and at times slows the political process to a snail's pace (as in the lengthy appeals of the court system).
2. Diversity of state laws and procedures creates an unfair situation for citizens from a national perspective. (For example, the average felony conviction leads to 13 months in jail in South Dakota as opposed to 58 months in Massachusetts).
3. Dispensing more powers to the states may be an unwise decision, because there is ample proof that states run their respective governments no more efficiently than federal bureaucrats run the national government in Washington D.C.
4. Federalism can result in unequal opportunities, because the wealthier states can provide better schools, medical care, and other services far more effectively than the poorer states.
5. The fragmentation of authority under federalism can permit unscrupulous interested groups who are concentrated in specific states to acquire undue influence and political power in those states.

Questions for Discussion

1. Which arguments, pro or con, seem most plausible? Why?
2. Assume that the federal government took over many of the traditional powers of the states. Or suppose the states were abolished in favor of dividing the country into "administrative zones," as some political scientists have urged. What are the respective advantages and disadvantages attached to such actions?

There are over 900 grant programs offered by the 26 Federal grant-making agencies.

BLOCK GRANTS: Federal government money to state or local governments for a use in a general purpose.

Examples: Community Development, Drug Abuse and Mental Health, Local Law Enforcement.

CATEGORICAL GRANTS: Federal government money to state or local governments for use in a narrowly defined purpose. About 90% of federal aid dollars spent this way. Examples: Head Start, Abestos School Hazard Abate. Act.

earmark GRANTS: Federal government money explicitly specified for local projects on a one-time basis. Often these are tucked inside large appropriations to induce the support of certain members.

1. What type of grants do you suppose are favored by the federal government? State and local governments? Explain.
2. TANSTAAFL – “There ain’t no such thing as a free lunch” is a common axiom. What exactly does this mean? How might this apply to federal grants?
3. Find examples of federal block grants/categorical grants/earmarks

FEDERAL MANDATES: “any provision in statute or regulation or any Federal court ruling that imposes an *enforceable duty* upon State, local, or tribal governments including a condition of Federal assistance or a duty arising from participation in a voluntary Federal program.”(2 USCS § 1555) Examples: Americans with Disabilities Act (1990), Clear Air Act (1970), Motor Voter Bill (1993), No Child Left Behind Act (2001), Patient Protection and Affordable Care Act [Obamacare] (2010) [See *Unfunded Mandate Reform Act*, 1995]

1. Often federal mandates are unfunded. Duties are imposed without any money attached. Why do you suppose this is true? How do you suppose these mandates are received?
2. What are *legitimate* arguments for mandates? Under what *authority* are federal mandates constitutional?
3. List three (3) examples of federal mandates

Quantitative Analysis

GOVERNMENTS in the UNITED STATES

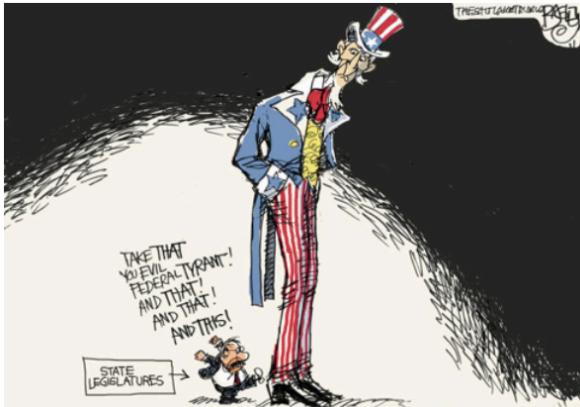
TYPE	NUMBER
Federal	1
State	50
County	3,034
Municipal (city, town, village)	19,429
Township	16,504
School District	13,506
Special Purpose (utility,library,...)	35,052
TOTAL	87,576

Source: US Census Bureau

- A. Identify the type of government with the most units.
- B. Using the data, describe the difficulties of enforcing national policies in a federal system.
- C. Explain how the data in the chart might be used to explain the practicalities of Fed. #51.
- D. Explain how the data in the chart could affect public policy debates between conservatives and liberals.

Unit 1 FOUNDATIONS OF DEMOCRACY

1.8 Constitutional Interpretations of Federalism



ESSENTIALS

The balance of power between the national and state governments has changed over time based on U.S. Supreme Court interpretation of such cases as:

- *McCulloch v. Maryland (1819)*—which declared that Congress has implied powers necessary to implement its enumerated powers and established supremacy of the U.S. Constitution and federal laws over the states.
- *U.S. v. Lopez (1995)*—which ruled that Congress may not use the Commerce Clause to make possession of a gun in a school zone a federal crime, introducing a new phase of federalism that recognized the importance of state sovereignty and local control.

The interpretation of the Tenth and Fourteenth Amendments, the Commerce Clause, the Necessary and Proper Clause, and other enumerated and implied powers is at the heart of the debate over the balance of power between the national and state governments.

1. What is the underlying idea of this cartoon?
2. The story of American government is the story of federal aggrandizement. What public policies are state and local governments still more prepared and able to accomplish better than a strong central government? Explain.

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The interpretation of the Tenth and Fourteenth Amendments, the Commerce Clause, the Necessary and Proper Clause, and other enumerated and implied powers is at the heart of the debate over the balance of power between the national and state governments.

For each of the following identify and state the significance to federalism:

Tenth Amendment

Fourteenth Amendment

Commerce Clause

Necessary and Proper Clause

TENTH AMENDMENT

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.

1. Restate the Tenth Amendment in your own words.
2. Why is the Tenth Amendment often referred to as the “reserved powers” amendment?
3. List three (3) authoritative opinions from political scientists, judges or elected officials regarding the meaning and reach of the Tenth Amendment. Explain each.
4. Do you think the Tenth Amendment is still relevant? What powers are still reserved exclusively to the states? Should there be more?

SCOTUS Comparison

For the second time in recent months, the Supreme Court on Tuesday reinforced the authority of the federal government’s energy regulators in the ongoing national-state competition to manage the markets for electricity. The Federal Power Act assures roles for both the Federal Energy Regulatory Commission and for the states, but major shifts in the energy markets are tending to favor FERC over the states.

That happened again as the Court decided the combined cases titled *Hughes v. Talen Energy Marketing*, curbing initiatives taken by Maryland and New Jersey when they were frustrated that federally regulated wholesale markets were not creating sufficient incentives to increase electricity generation. Those efforts, the Court declared by an eight-to-zero vote (with some disagreement among the Justices), have had an illegal influence over the prices at which power is sold at wholesale.

The new ruling illustrated the Court’s continued close attention to the federal-state division of energy regulation since the growth of giant regional auctions that seek to keep electricity flowing even during times of peak demand without pushing up too high the prices that are ultimately paid by the customers at the end of the power distribution chain.

The states felt certain that their scheme was legal under the Federal Power Act because the actual generation of electricity has long been within the states’ regulatory realm, under that act. But it was the impact of that scheme on the auctions that the Court majority found did amount to an intrusion on FERC’s authority. The specifics of the Maryland and New Jersey plans, Justice Ruth Bader Ginsburg wrote in the main opinion, was to drive down the regional prices in the Atlantic market below what FERC had concluded was necessary to assure the continued supply of adequate generation.

“States,” the Ginsburg opinion said, “may not seek to achieve ends, however legitimate, through regulatory means that intrude on FERC’s authority over interstate wholesale rates, as Maryland [and New Jersey] has done here.” Past precedents, the Court added, made clear that “states interfere with FERC’s authority by disregarding wholesale rates FERC has deemed just and reasonable, even when states exercise their traditional authority over retail rates or, as here, in-state generation.”

Source: Lyle Denniston, *U.S. Energy Regulators’ Authority Grows*, SCOTUS blog, April 19, 2016

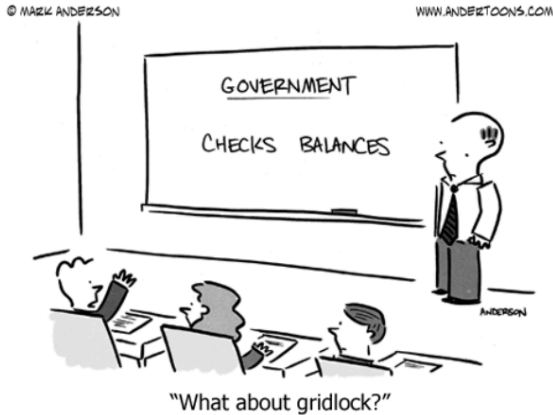
Based on the information above, respond to the following questions.

- A. Identify the clause in the U.S. Constitution that was used as the basis for the decision in both *McCulloch v. Maryland* (1819) and *Hughes v. Talen Energy Marketing* (2016).
- B. Explain how the facts in both *McCulloch v. Maryland* (1819) and *Hughes v. Talen Energy Marketing* (2016) led to a similar decision in both cases.
- C. Describe an action that an interest group could take to respond to the *Hughes v. Talen Energy Marketing* (2016) ruling if it disagreed with the decision.

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1.9 Federalism in Action



ESSENTIALS

1. Multiple access points for stakeholders and institutions to influence public policy flows from the allocation of powers between national and state governments
2. National policy-making is constrained by the sharing of power between and among the three branches and the state governments.

1. What is the underlying idea of this cartoon?
2. Define what is meant by government gridlock. Is it possible that gridlock is what the Founding Fathers imagined for their new government? Explain.

1. *McCulloch v. Maryland* (1819)
2. *Gibbons v. Ogden* (1824)
3. *Worcester v. Georgia* (1832)
4. *Lochner v. New York* (1905)
5. *Hammer v. Dagenhart* (1918)
6. *Gitlow v. New York* (1925)
7. *W. Coast Hotel Co. v. Parrish* (1937)
8. *South Dakota v. Dole* (1987)
9. *United States v. Lopez* (1995)
10. *United States v. Morrison* (2000)
11. *Raich v. Gonzalez* (2005)

“Here Comes the Judge”

This is a short list of Supreme Court cases that dealt with the relationship between national and state government power.

1. Choose five (5) and provide a brief precedent.
2. Choose two (2) and provide additional background information.
3. Chose one (1) and ID the nine judges with their respective vote. Anything noticeable?

Quantitative Analysis

QUANTITATIVE ANALYSIS

The fastest growing states. 2017

STATE	1 year Pop. Growth	10 year Pop. Growth
Utah	2.03%	20.82%
Nevada	1.95%	16.55%
Idaho	1.83%	14.60%
Florida	1.82%	13.46%

The fastest shrinking states. 2017

STATE	1 year Pop. Growth	10 year Pop. Growth
West Virginia	- 0.54%	0.17%
Illinois	- 0.29%	1.25%
Vermont	- 0.24%	0.27%
Connecticut	- 0.23%	1.68%

Use the information graphic to answer the questions.

- Identify the fastest shrinking state over the last ten years.
- Describe a similarity or difference between growing and shrinking states, as illustrated in the information graphic, and draw a conclusion about that similarity or difference.
- Explain how population changes as shown in the information graphic impacts public policy making.

ARGUMENTATION ESSAY

Develop an argument that explains how national policy-making is enhanced by the sharing of power between and among three branches and the state governments.

In your essay, you must:

- Articulate a defensible claim or thesis that responds to the prompt and establishes a line of reasoning.
- Support your claim with at least TWO pieces of accurate and relevant information. At least ONE piece of evidence must be from one of the following foundational documents – U.S. Constitution, Federalist 70, Federalist 78
- Use a second piece of evidence from another foundational document from the list or from your study of the electoral process
- Use reasoning to explain why your evidence supports your claim/thesis
- Respond to an opposing or alternative perspective using refutation, concession, or rebuttal