

The Constitution

The Six Basic Principles

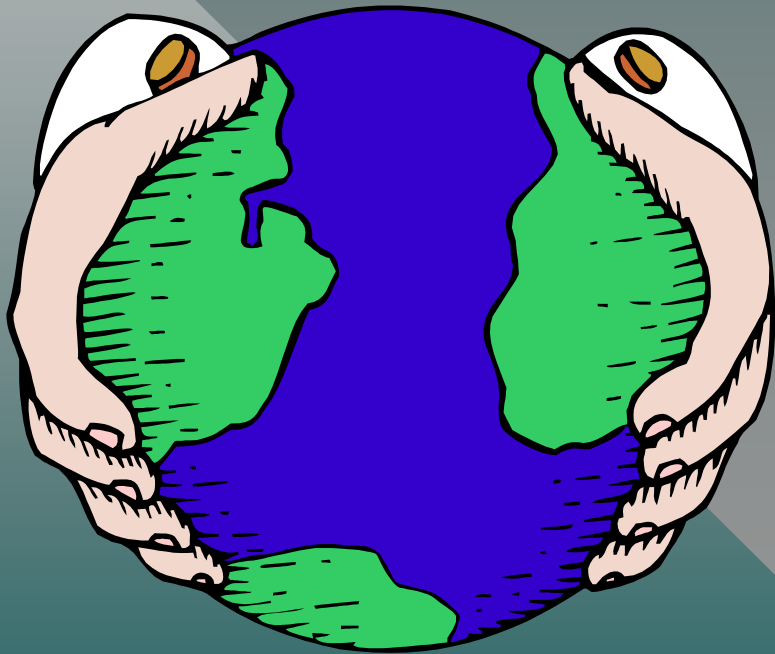
- The Constitution is only about 7000 words
- One of its strengths is that it does not go into great detail.
- It is based on six principles that are embodied throughout the document.

Popular Sovereignty

- People are the only source of governmental power
- Government governs with the consent of the people
- “We the People...” - the Constitution and the government were created by the people, who gave it its powers



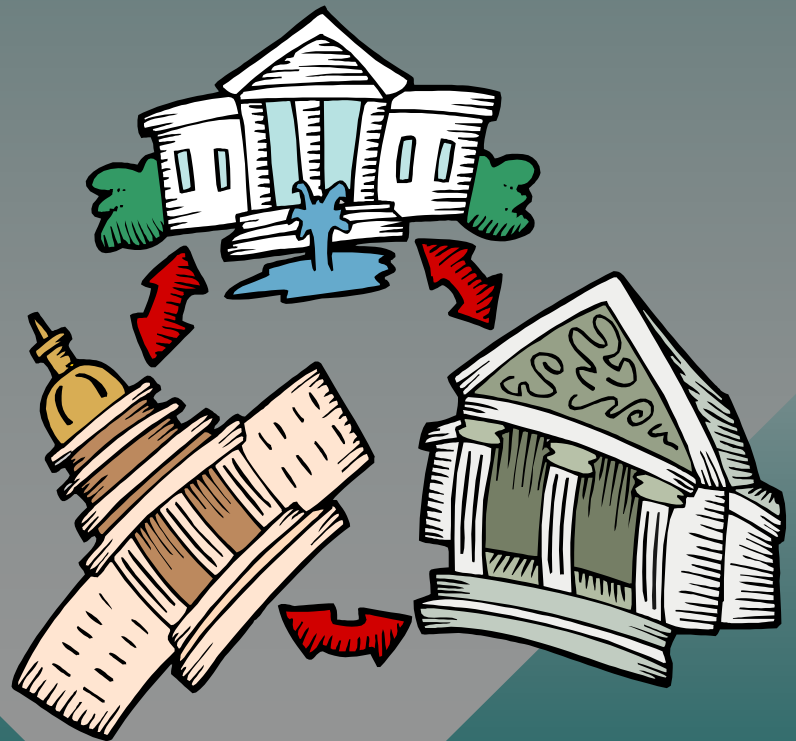
Limited Government



- Government is not all powerful - it can only do those things the people have given it the power to do
- Constitutionalism
- Rule of law
- Government and its officers are subject to - not above - the law
- Constitution spells out what government cannot do as well as what it can do

Separation of Powers

- Power of government divided between three distinct and independent branches
 - Legislative - Art. I
 - Executive - Art. II
 - Judicial - Art. III
- Framers felt the division would limit the power
- Too much power in one place would be dangerous

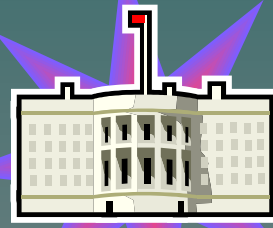


Checks and Balances



- Each branch of government subject to restraint by the other branches

Executive carries out laws



Judges are appointed for life; may declare executive actions unconstitutional

President may veto laws, call special sessions, recommend legislation, appeal to the people

Congress creates lower courts: may remove judges through impeachment; Senate approves appointment of judges



Judicial interprets laws



Congress makes laws

Judicial Review

- The power to decide questions of constitutionality
- Held by all federal courts
- Established in Marbury V. Madison



Federalism

- Revolution fought to manage local affairs without interference
- Central government under the Articles of Confederation was too weak
- Division of powers between National Government and the States
- Built a more effective central government while preserving the existing States and the concept of local government



Amending the Constitution

- Constitution has been in effect for more than 200 years
 - written to govern an agrarian nation of less than four million.
 - Now governs an industrialized nation of more than 270 million.
 - Key to success is the ability to change

Formal Amendment Process

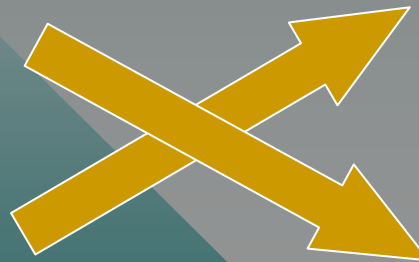
Spelled out in Article V

Proposed by

**Congress by a
2/3 vote in
both houses**

or

**National
Convention
called by
Congress when
requested by 2/3 of
State legislatures**



Ratified by

**State
legislatures
in 3/4 of States**

or

**Conventions
held in 3/4
of the States**

Formal Amendment Process

- Proposal takes place at the national level and ratification takes place at the State level
- Amendments cannot “without the State’s consent” change representation in the Senate.
- More than 10,000 resolutions have called for amendments - 33 have been sent to the States - 27 have been ratified.

Informal Amendment

- **Basic legislation**
 - passage of laws
 - court system, inter-state commerce, etc.
- **Executive Action**
 - presidential order or agreement
 - use of troops without a declaration of war
- **Court Decisions**
 - declaring certain acts constitutional or the reverse
 - Marbury v. Madison
- **Party Practices**
 - nomination of president; the daily business of Congress
- **Custom**
 - third term for presidents; Vice-Presidential succession

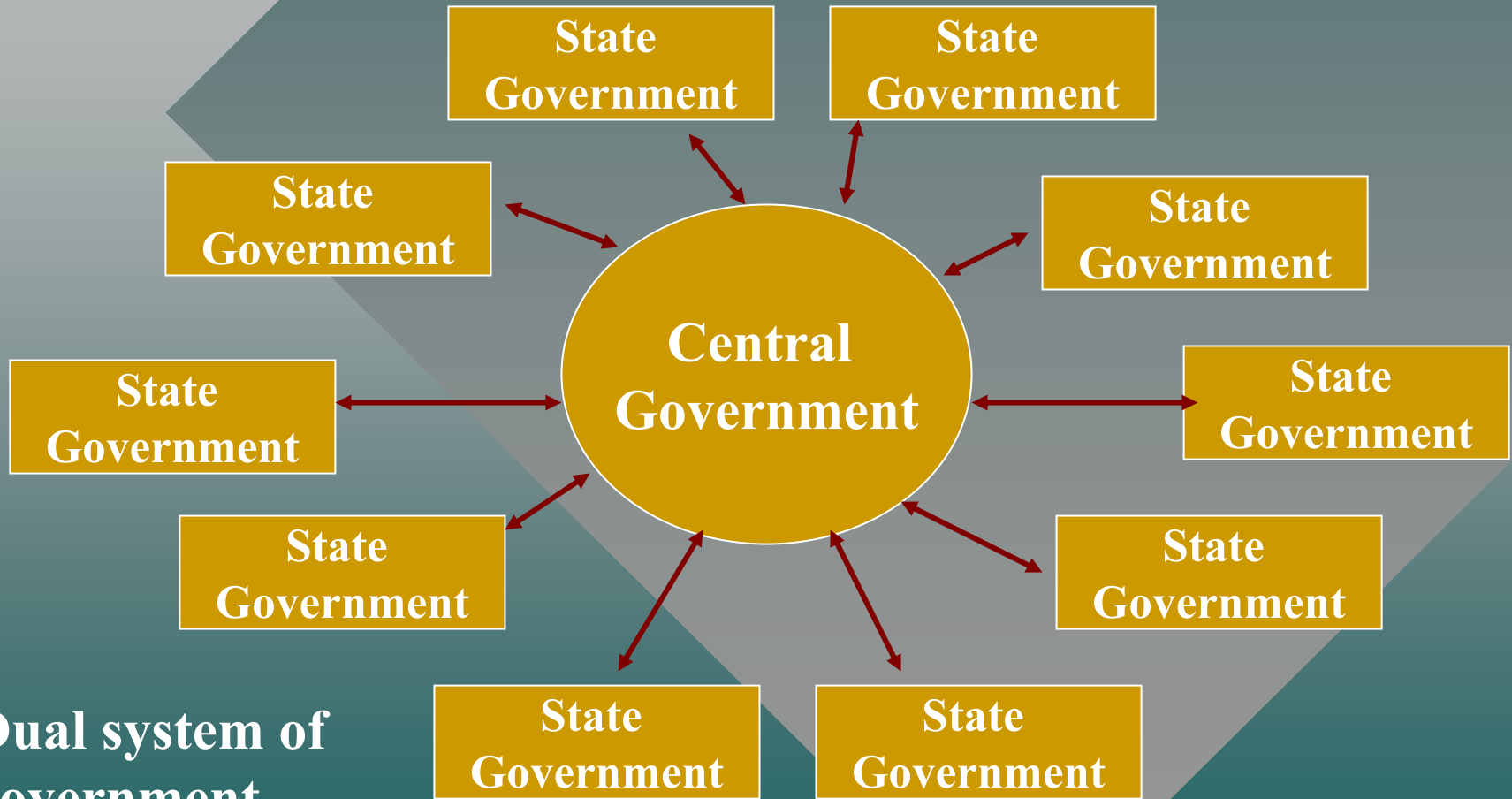
Federalism

Problem of the Framers

- How to design a strong national government with the power to meet the nation's needs and to preserve the existing States at the same time?
 - Any government power is a threat to individual liberty
 - Use of power must be limited
 - To divide power is to limit it

Provides strong union to handle matters of wider concern
2 governments over the same people at the same time

The Solution - Federalism



Dual system of government

Allows local action & choice

Division of Powers

- Set out in the Constitution
- Types of powers
 - Delegated powers
 - Expressed
 - Implied
 - Inherent
- Powers based on who holds them
 - Exclusive
 - Concurrent
 - Denied
 - Expressed
 - Implied
 - Reserved

National Government

Expressed Powers

- Stated in the Constitution
- Article I Section 8 Clause 1-18
 - 27 powers given to Congress
 - lay and collect taxes, coin money, regulate foreign and interstate trade, declare war, etc.
- Article II Sections 2 and 3
 - Powers given to the President
- Article III
 - Powers given to the Courts
- Amendments

Implied Powers

- Not stated, but are reasonably implied by the powers that are stated
- Article I Section 8 Clause 18
 - elastic clause
 - The “Necessary and Proper” Clause has come to mean expedient and convenient
 - Regulate interstate commerce

Inherent Powers

- Belong to National Government because it is a national government
- really not that many
- Regulate immigration, acquire territory, give diplomatic recognition, protect nation from rebellion or internal subversion

Denied Powers

- Expressly Denied
 - most in Article I Section 9 and Amendments 1-8
 - Can't levy duties on exports, can't deny freedom of speech, press, assembly, etc.
- Denied by Silence
 - National government can't have these powers because the Constitution doesn't give them these powers.
 - Create public school system, enact a uniform marriage law, set up local governments, etc.



States

Reserved Powers

- 10th amendment
 - Those powers not delegated to the National Government are reserved to the States
 - Can regulate marriages, liquor, licenses, set up public schools, regulate divorces, etc.

Denied Powers

- Expressed
 - Can't enter into treaties, alliances, or confederations, can't print money, or deny due process
- Implied
 - can't do anything to jeopardize the federal system like tax the federal government

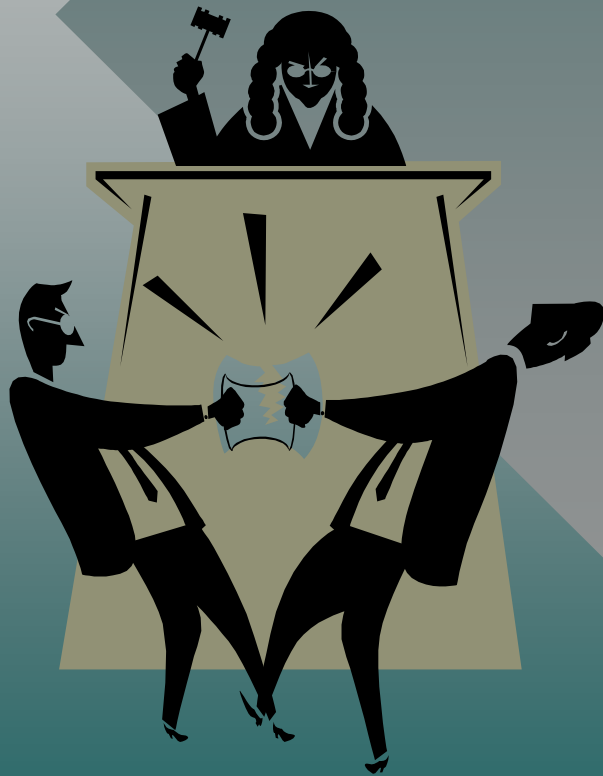
Levels of Power

- Exclusive powers
 - held only by the National Government
 - coin money, make treaties, lay duties
- Concurrent powers
 - held by both State and National Government
 - lay and collect taxes, define crimes, set punishments, take private property for public use

Supreme Law of the Land

- Article VI Section 2
 - Supremacy clause - Constitution is supreme in all cases
- Constitution
 - Laws of Congress and treaties
 - State constitutions
 - State laws
 - » local ordinances

Role of the Supreme Court



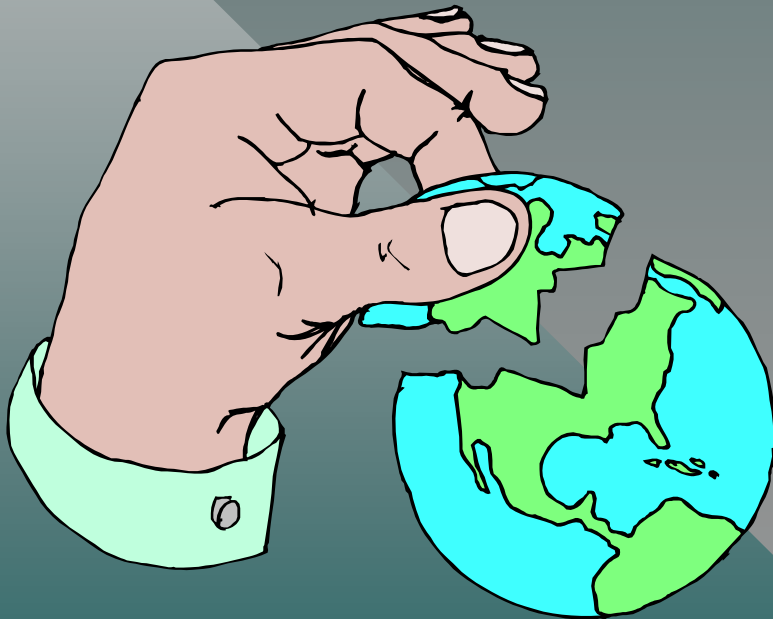
- Umpire of the Federal system
- *McCulloch v. Maryland*
- John Marshall
 - Key role in preserving federal system

National Government's Obligation to the States

- Guarantee republican form of government
- Protection from invasion or domestic violence
- Respect for territorial integrity



Admitting New States



- Only Congress can admit
- Procedure
 - Area petitions Congress
 - Congress passes enabling act directs writing constitution
 - Constitution prepared and approved by voters in territory
 - Act of Admission
- Conditions may be placed on admission but once in on equal footing

Federal Cooperation

- National to State
 - Grants-in-aid
 - Block Grants
 - Revenue sharing
 - Other
 - FBI
 - Disaster relief
- State to National
 - Elections
 - Naturalization
 - Police cooperation

Cooperation Among States

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

