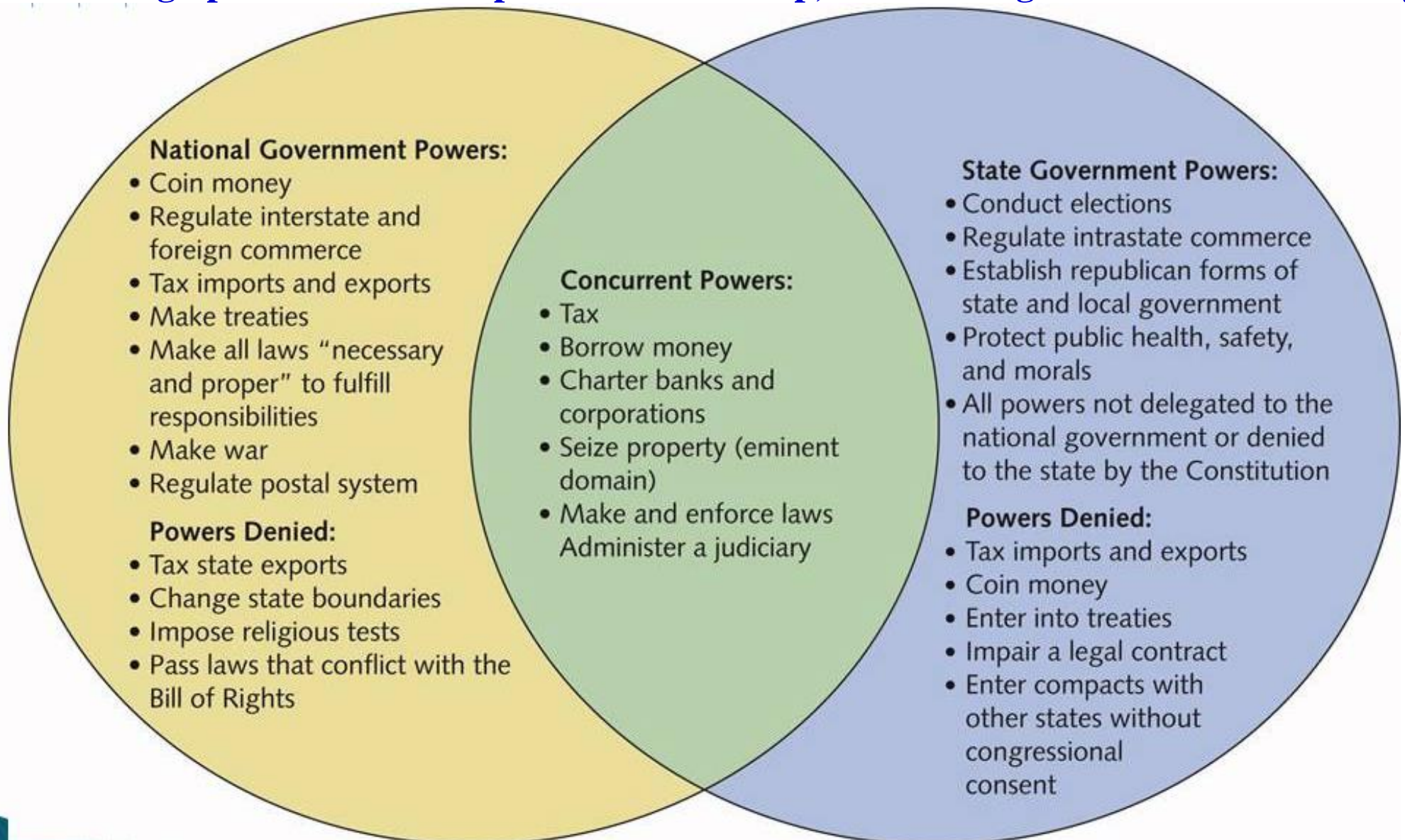


# Federalism

Federalism a political system in which **both a state government and a national government make final decisions with respect to at least some governmental activities and whose existence is specially protected; both local and national forms of government have their own sovereign powers and some powers that overlap, thus making the two share authority.**



## Background / The Founding

↳ To the Founders, federalism seemed the perfect way to protect personal liberty, since concentrating all power into one hand (even one popularly elected hand) might prove to be tyrannical; **while working under a confederation, or an alliance of states where the state governments are more powerful than the national governments, could prevent progress.** The Founders envisioned federalism as a system in which both national/state governments would have certain powers, but neither would have supreme authority over the other. It wasn't until the 10<sup>th</sup> Amendment that states actually received power.

- ↳ In that amendment, all power not given to the national government is given to the states.
- ↳ On the other hand, it seems that the national government has usually retained these “other powers” anyway, despite what is said, due to support from the courts.
- ↳ The language used to describe national/state government relationships was vague, and it was later left up to the courts to interpret it.



While the US Constitution clearly limited national powers, the 10<sup>th</sup> Amendment was added as a further protection.

➤ Still, certain Constitutional loopholes have allowed for the expansion of the powers of the federal government:

1. **The Necessary and Proper Clause** (Elastic Clause; Article 1, Section 8, Clause 18)

↳ Allows the national government to do anything “necessary and proper” to exercise its powers that are enumerated in the Constitution.

↳ **Federalist Paper nr.44**: Madison argues that the purpose the Necessary and Proper Clause was to simply give the Congress the ability needed to fulfill its duties described in Article I, Section 8

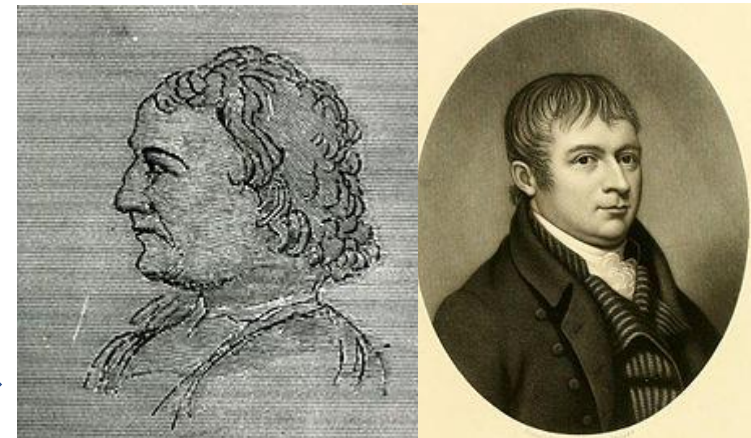
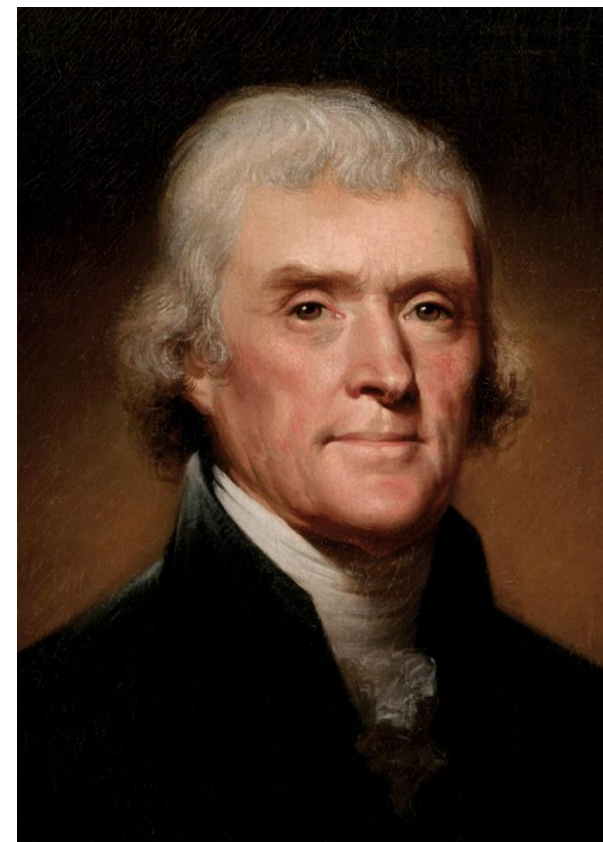
↳ **Federalist Paper nr.33**: Hamilton argues that the clause simply empowers Congress to do what it is empowered to do under Article 1, Section 8.

2. **The Interstate Commerce Clause** (Article 1, Section 8, Clause 3)

↳ The national government has the power to regulate anything involved with interstate commerce.

## Philosophical Criticism of Federalism:

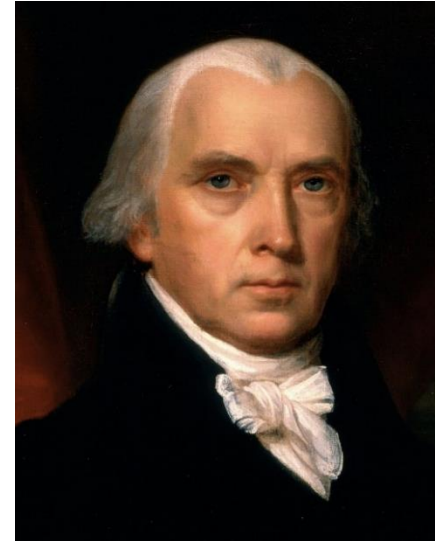
- Anti-Federalist view: Thomas Jefferson believed that “the people” were the ultimate sovereigns, and since the Constitution was a result of agreement among the states, the states were supreme over the national government.
- What will prevent it from turning into a unitary system of government?
  - ↳ In which the national government can abolish local governments at will and have the final say in all important government matters. (as witnessed in France, Sweden, England and Italy)
- Federalism works in principle due to people
  - ↳ But in the Soviet Union, which technically has a federalist government, the Kremlin controlled the “states”
- States are "parasitic and poisonous" (Laski)
- It supports the perpetuation of racism (Riker)
- It blocks progress (ie, gridlock) and protects powerful local interests
- Small political units tend to be dominated by single political faction
- The Necessary and Proper Clause would allow Congress to run uncontrolled over the rights of both the states and individuals.
  - ↳ “A power to make all laws, which shall be necessary and proper; for carrying into execution, all powers vested by the constitution in the government of the United States, or any department or officer thereof, is a power very comprehensive and definite, and may be exercised in such manner as entirely to abolish the state legislatures.” Brutus I, October 1787
    - ↳ Brutus I is generally attributed Melancton Smith of Poughkeepsie and/or John Williams of Salem →



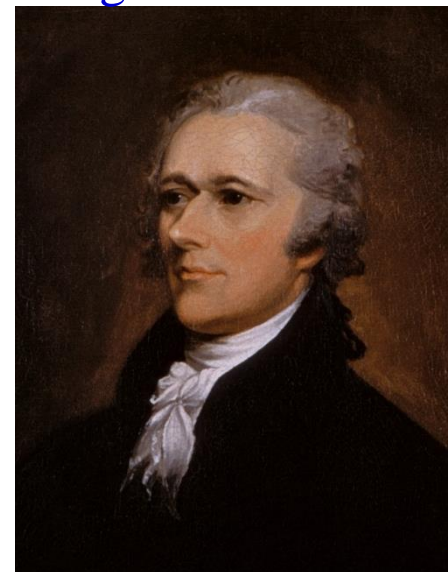
## Philosophical Support for Federalism:

- Philosophy: limit the national government by creating a second layer of state government in opposition to it
- Diversity!
  - ↪ Different political groups with different political purposes come to power in different places
- Increased political activity
  - ↪ The number of political contact points for the average citizen are greatly increased and the cost of participation is greatly reduced (running for local office is less expensive than national office).
  - ↪ Political organizing is less expensive at the local level.
- Federalism tends to preserve liberties
- Neither level (state and national) of government could rule the other; people's support would shift as it appears such was happening
- According to James Madison, since there are so many diverse interests, only a large government (like the US) can adequately have the maximum number of sides to be heard, as opposed to small nations, where not as many interests could be known and argued.
  - ↪ In **Federalist No. 46**, Madison argued that state and national governments were simply different agents and trustees of the people, who held the ultimate power.
- In **Federalist No. 28**, Alexander Hamilton explained that, in federalism, people would shift their support between national and state governments to keep the two in balance.

❖ *Actually, this was a new vision in which no one really knew how it would work!*



James Madison



## Mixed view:

- Americans have traditionally supported anti-Federalism – they are strong supporters of local government. Still, someone who wants to see quick government policy changes (very often liberal or progressive in nature) might feel it is too slow
- James Madison was an early Federalist, but later in life moved more toward the Jeffersonian perspective; Jefferson, an early anti-federalist, as president shifted toward the federalist position.