

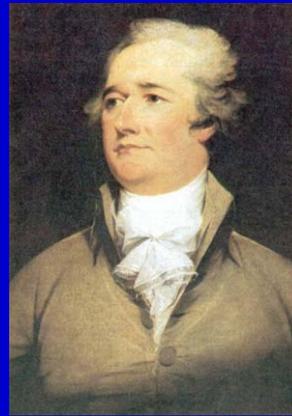
# *Federalist Papers*



Standard 12.1.5: Describe the systems of separated and shared powers, the role of organized interests (Federalist Paper #10), checks and balances (Federalist Paper #51), the importance of an independent judiciary (Federalist Paper # 78)

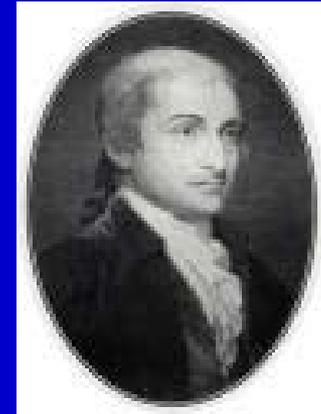
# FEDERALIST PAPERS

James Madison



Alexander  
Hamilton

John Jay



# *FEDERALIST PAPERS*

- Written from 1787-1788
- Series of 85 essays explaining the principles and structure of the Constitution, to gain support
- Written under the pseudonym of Publius

# *FEDERALIST PAPER # 10*

- Faction (Think Political Party or Group)
- Causes of Faction
  - Religion
  - Political Opinion
  - Ambition
- Problem for modern governments: How to regulate (control) factions so that they do not infringe on rights of others? How to protect factions from each other and prevent one from becoming dominant politically

# *FEDERALIST PAPER # 10*

- Curing the problems caused by factions
  - Remove the causes (2 possible ways)
    1. By destroying individual liberty (Worse than the problems)
    2. By everyone's thinking the same way, feeling the same things, and wanting and acting to gain the same advantage (improbable)

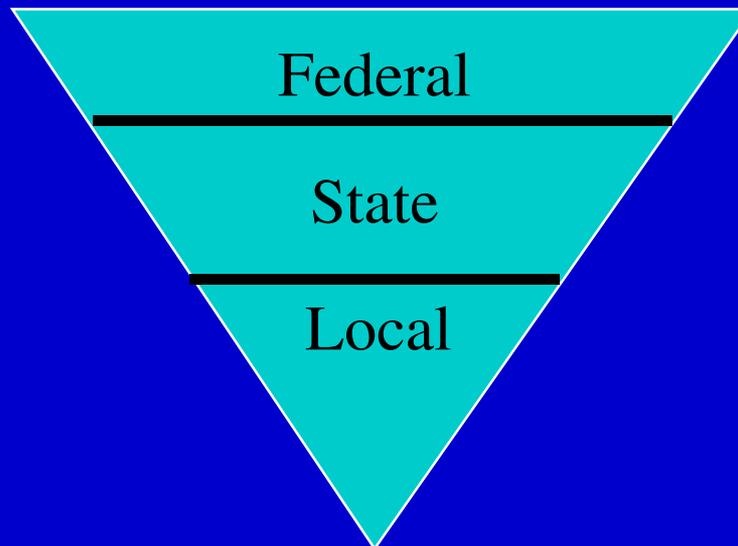
# *FEDERALIST PAPER # 10*

- Should government prevent the interests of the majority party (faction) from overriding the rights and interests of minorities? Can it?

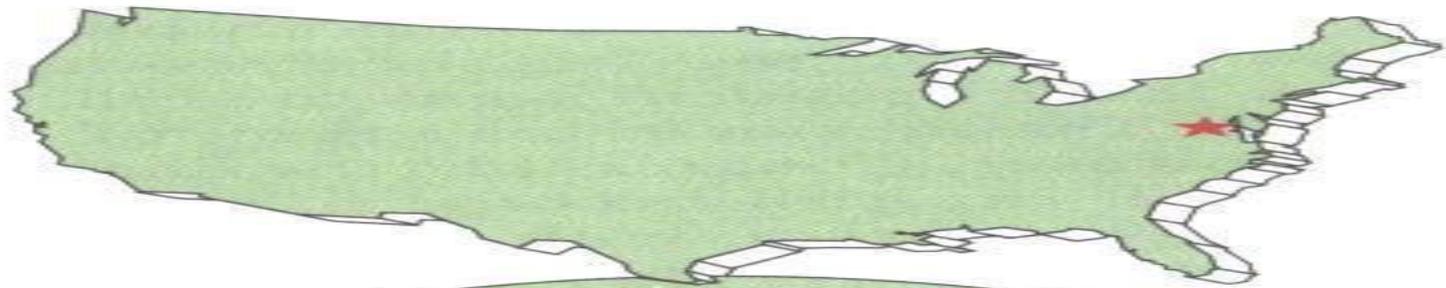
# FEDERALIST PAPER # 51

- We have a compound republic where power flows from the people to the national and state government. Then at both the national and state level power is allotted to each of 3 departments, executive, legislative, and judicial. Each department is to act as a check on the others.

The Federal  
System



# Sharing the Power



## Powers of National Government

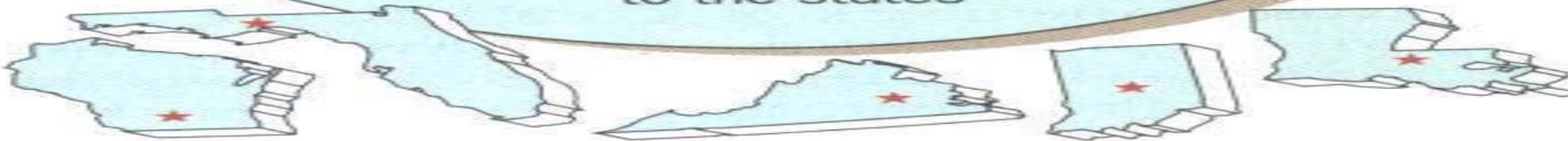
- Maintain army and navy
- Declare war
- Coin money
- Regulate trade between states and with foreign nations
- Make all laws necessary for carrying out delegated powers

## Shared Powers

- Enforce Laws
- Establish courts
- Borrow money
- Protect the health and safety of the people
- Build roads
- Collect taxes

## Powers of State Governments

- Conduct elections
- Establish schools
- Regulate businesses within the state
- Establish local governments
- Regulate marriages
- Assume other powers not given to the national government or denied to the states



# *FEDERALIST PAPER # 51*

- Each department should have a will of its own
- Ambition must counteract ambition by pitting one power against another
- In order for the government to survive, its structure must be such that:
  1. It has the power to control the citizenry
  2. It must control itself. Unbridled power, by individuals or by government itself, is to be feared

# *How the Legislative branch Checks the other branches*

## Judicial Branch

### **Congress**

- Can impeach judges, create lower federal courts and fix their jurisdictions, set the size of the Supreme court and determine judicial salaries.

### **Senate**

- Confirms Judges

## Executive Branch

### **Congress**

- Passes the laws that create executive agencies and the programs they administer, and it can override presidential vetoes by a 2/3 vote of both chambers and can impeach the president

### **Senate**

- Ratifies treaties and confirms presidential appointments to the executive branch and the courts

# *How the Executive branch Checks the other branches*

## Judicial Branch

- Nominates federal judges and may enforce court orders

## Legislative Branch

- President can recommend legislation to Congress, veto bills passed by Congress, and implement laws passed by Congress

# *How the Judicial branch Checks the other branches*

## Executive Branch

- Courts can declare presidential actions unconstitutional
- Courts can determine whether the executive branch is properly administering laws passed by Congress

## Legislative Branch

- Courts can interpret congressional statutes and declare acts of Congress unconstitutional.

# *FEDERALIST PAPER # 78*

- “According to the plan of the convention, all judges who may be appointed by the United States are to hold their offices during good behavior.”
- The judiciary, has no influence over either the sword or the purse; no direction either of the strength or of the wealth of the society; and can take no active resolution whatsoever.
- The Supreme Court can only REACT to cases presented to it. Has this factor contributed to its power or decreased it?

# FEDERALIST PAPER # 78

- The interpretation of the laws is the proper and peculiar province of the courts.
- Chief justice John Marshall uses virtually the same language in *Marbury v. Madison* to declare the doctrine of judicial review.
- Judicial Review-Constitutional doctrine that gives to a court system the power to annul legislative or executive acts which the judges declare to be unconstitutional.
- The Constitution as the Supreme law of the land should take precedence over any subsequent law (Supremacy Clause), just as the will of the people ought to take precedence over the will of any elected representative.

# *Independent Judiciary*

- The establishment of an independent judiciary is the most widely admired and imitated feature of the U.S. Constitution, after the Bill of Rights.
- A secure from outside influence-judicial branch acts as the watchdog of the Constitution and prevents the executive and legislative branches of government from disregarding it.
- The judicial branch helps to ensure that the words of the Constitution will be obeyed by the government.