

History of us federalism



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Khang Le

In the US government, we have a system of checks and balances. With this system, the government and the separate branches can counter each other and maintain a balance of powers. It ensures that no branch of government becomes too strong and takes over another branch. In other words, this maintains a balance of powers. They become balanced because they can keep the other branches in check and they all have their own set of powers and responsibilities. The purpose of the checks and balances system is to make sure that democracy is upheld and that decisions made by the government work for everyone in the US. When the US government as we know today was being formed, the founding fathers decided that it would be best to split the government into three entities. The judicial branch is the Supreme Court and they oversee the determination of whether a law or policy is constitutional. By constitutional, I mean that the said policy or law is within the premises of the Constitution. The reason why the Supreme Court must do this is because Thomas Jefferson made it so that the interpretation of the Constitution was loose-ended, meaning that it would be up to the judges to deem it constitutional. If it was not loose-ended, then that would mean the judges would have to adhere strictly to the Constitution and go word for word to interpret that law or policy. The next branch is the executive branch. The executive branch is the president himself. He is the commander-in-chief of the army. During times of war, the president will oversee the manpower of the army. He has the power to appoint new justices, which are the supreme court judges. But he can only do so with the approval of the Senate. He sometimes drafts new bills so that it can

become laws by the next year. He also has the power to veto a bill passed by Congress. Vetoing is the power to overrule a law and deny it from being a law. This however can be overturned by Congress. Congress belongs in the legislative branch. They are the people that come up with new procedures and laws to be passed. If for some reason the president vetoes their bill the first time, they can overrule it by having a second vote and having over two-thirds of Congress vote in favor of the bill. Sometimes, when there is a stalemate, a tie between votes, the vice president become the tiebreaker. There have been very few occasions where the Vice President had to come in to break a tie. The most recent one being President Trump's Vice President. Now, once a bill has passed and becomes a law, it is then tested by the citizens of the United States. When someone believes that the law is unjust, they are allowed the right to file a lawsuit. The lawyers then make arguments for the case and a judge will preside the hearings. If they lose, they can appeal to higher courts and may eventually reach the Supreme Court. In the case where the legislative branch does not find the ruling of the Supreme Court to be favorable, they can propose a new bill and then the process starts all over again. Congress, namely the Senate, also are the ones in charge of approving treaties with other countries. The president may be the face of the country but he doesn't have all the power. The principle behind these branches of government is that with separation of powers, not one part of the democratic government has too much power and they keep each other in check. This kind of checks and balances are applicable to constitutional governments. The media plays a huge role in the political process, especially if there was a misdoing on behalf of the government. With the arrival of social media and a wide variety of ways to attain news,

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the political process is under more scrutiny than ever. The only problem would be that how much the government censors or covers up. Because of that, sometimes the people become unaware of how laws work or that there could be loopholes in laws.

Federalism is the way the United States is being run. Every single one of the states in the US shares a relationship with the national government.

Basically, the federal government has a set of laws that need to be abided by. The state governments can enforce the laws to the extent that they believe is correct. For example, in some states, people can enter bars at the age of eighteen whereas in others, you must be twenty-one to do so. This system was created in this way to govern large and diverse nations. Not all areas can be governed the same, which is why federalism helps gives power to the states but the central government can still stay in power because it serves as a starting point for the states to follow. Before the United States became what, it is today, it was a confederation. While it was a confederation, the central government was weak and had almost no power, meaning that it had no way of providing itself with money and no military strength. While the states had all the power, they lacked a unified system and couldn't get their ideas together and could not be cohesive. After federalism kicked in, while the central government could impose laws and taxes onto the states, the states themselves can do what they saw fit and in accordance to the law. A bicameral Congress with the House of Representatives and a Senate also help to distribute the power from the states and central government. Because it is a representative system, the people are closer to the government and it makes for an efficient voting process because there

are many opinions and it usually doesn't take too much time to vote. Both the concepts of dual federalism and cooperative federalism have originated in the USA. Dual federalism is referred to as layer cake due to the existence of distinct wall between powers and responsibilities of national governments and that of state governments. Cooperative federalism is referred to as marble cake. Dual federalism has horizontal power structure between national and state governments whereas cooperative federalism has a vertical structure between the two. In dual federalism, national government and state governments enjoy sovereignty in their respective fields. No such thing exists in cooperative federalism. Dual federalism is a rigid structure where at cooperative federalism is a flexible structure. Dual federalism promotes competition and tension; cooperative federalism promotes cooperation.

The third section I am going to discuss is about the Civil Rights, the two Amendments that I am going to discuss are Amendment IV (Search And Arrests), it says " The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized". Basically, the police officer, in order to make a lawful arrest, must have a warrant in order to do so. If he doesn't have a warrant then it will be considered unlawful arrest and search. In order to get a warrant, the police officer must have evidence or probable cause that supports it. The police officer, or whoever has the evidence, must swear that it is true to his or her knowledge. The second

Amendment that I'm going to discuss is the fifth Amendment. It says " No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger, nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation." As it was in 1791, the Fifth Amendment continues to be very important today. Americans are protected against being tried repeatedly for the same crime. The government cannot bring you to trial again and again for the same offense, hoping to get the result they want. This means that if you are suspected of committing a crime, it's up to the state to prove its case against you. You are innocent until proven guilty, and governmental authorities cannot deprive you of your life, your liberty or your property without following strict legal codes of conduct or " due process". The Fifth Amendment also protects private property against a government taking. In 2005 the U. S. Supreme Court ruled in *Kelo v. City of New London* that local governments could take private property from one person and transfer that property to a corporate entity with the expectation that the property would become more useful to the public. The ruling drew a sharp dissent from Justice Sandra Day O'Connor, who warned that it will allow governments to seize any property simply to allow developers to upgrade it. O'Connor wrote, " Nothing is to prevent the state from replacing any Motel 6 with a Ritz-Carlton, any home with a shopping mall." Since that decision, several local governments have

declared their intent to take peoples' homes in order to convert them into office complexes, shopping centers and mega-stores. As local governments continue to search for ways to increase tax revenue, hard-working homeowners must be wary about their homes being taken away.

Designating such possessions as necessary for the “ public use” is often a sham, with the desire to increase tax revenues being the real motivation of local governments. Since the Kelodecision, some state legislatures have passed laws which ensure that such possession takings cannot occur. But unless the American public remains educated and focused on preserving this important constitutional right, it, along with their homes, could be taken by the government. The 14th Amendment said All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the Executive and Judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the

proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void. And the last one is The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

For the last section, I think a relevant topic of discussion would be president Trump's travel ban. I believe this is relevant because its political process involves heavily on the president and the Supreme Court. The president may have issued a policy that bans travel from seven different countries but the Supreme Court had deemed it unconstitutional and overturned it. This relates to the concept of checks and balances. While the president is going

to keep his promise with banning Muslims from entering the country, the Supreme Court is telling him that he is misusing his authority. Many people in the United States are affected by this too. Several families that are refugees are being deported out of the country and back into the dangerous areas. I think this is unjust and selfish of the current president. Simply because a person or a family comes from a certain ethnic group, does not mean that they are automatically connected to the series of terrorisms that have happened in the United States. While most of the high profile attacks came from Muslims, a lot of terrorist attacks on American soil have been committed by our own countrymen. The news sources that I have read are liberal in their language and are very left-winged. As an immigrant, I also fear for my safety, because if the current president can do as he pleases, then there could be one day where he opens a loophole and I could be his next target. It is a big help knowing that the democratic system still works for the most part. Even though the president may be doing everything in his power to feed his selfish needs, the legislative branch and the judicial branch are there to keep him in check.

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