

The "Federal" in Federalism

Name: _____

United States

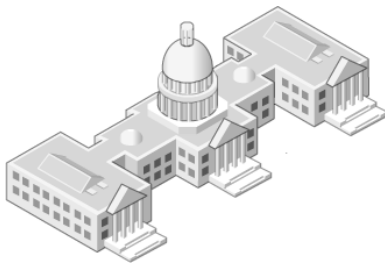
The United States is one country—but it's also a bunch of states. You could almost say it's a group of states that are... well... *united*. When our country was born, thirteen states already existed. Each one had been a British colony before gaining independence from Britain after the Revolutionary War. These new states wanted to come together as one nation, but they also wanted to be independent. After all, they'd just won their freedom from a powerful government! They needed a central government that would share power with the states, and that's exactly what they created when they wrote the Constitution.



Who is in charge? States or the federal government?

Let's Get Together

Each state already had its own government, so it wasn't as if the new Americans were running amok. But if the new United States was going to be able to deal with other nations, it needed one government that would speak for the entire country. It also needed one central government to do things like declare war on other countries, keep a military, and negotiate treaties with other countries. Each state also had its own court system, but there needed to be federal courts where citizens from different states could resolve their disputes.



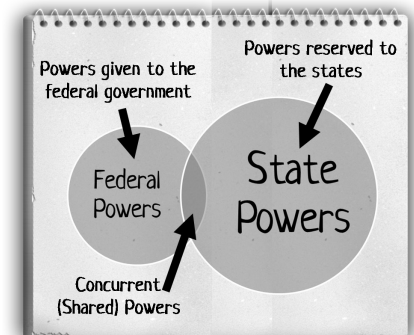
Government on Two Levels

The United States Constitution creates a central government known as the federal government. The federal government deals with issues that affect the entire country. Each state also has its own state government that only handles the affairs of that state. This division of power between a central government and state governments is called **federalism**.

federalism: the division of power between states and a central government

federal: a word that refers to the central government

The federal government gets all of its power from the Constitution. Federal power is divided among three branches of government: the executive, legislative, and judicial branches. The Constitution explains the role and powers of each branch. In order to keep the federal government from becoming too powerful, the Constitution says that any power not given to the federal government is a power the states or the people keep for themselves. There are a few powers that both the states and the federal government share.

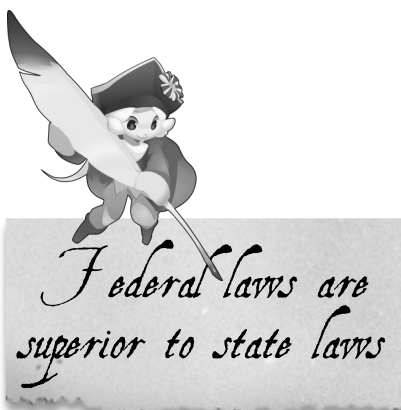


The Supremacy Clause

Before the Constitution, the United States tried another government that was very weak. It wasn't able to get much done because states could just ignore all the laws it passed—and they did! The Constitution has some very important language to prevent this:

This Constitution, and the laws of the United States which shall be made in pursuance thereof... shall be the supreme law of the land.

That means federal laws passed by Congress are supreme—they are superior to state laws. The Founders of our country learned from experience that this was necessary in order for the federal government to keep the power the Constitution gives it.

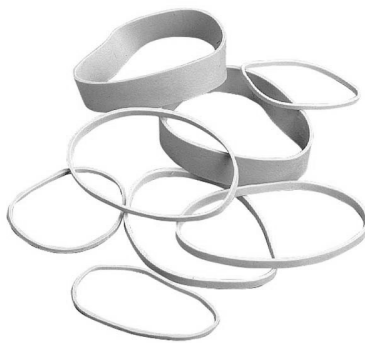
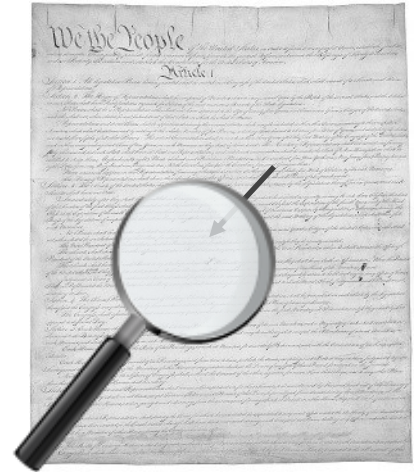


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Federal Power: Expressed Powers

The Constitution gives most of the federal power to Congress. This was another way of limiting federal power: Because members of congress represent citizens in their home states, they are most likely to be responsive to citizens' wants and needs. The Constitution gives Congress two types of powers. The most obvious type is expressed powers. When you *express* yourself, you state how you feel. Similarly, **expressed powers** are actually stated, or "expressed," in the Constitution. Each branch has expressed powers, but you mostly hear this term in reference to Congress. The Constitution states that Congress has the power to do things like coin money, declare war, and establish immigration laws.



Can you guess why the Necessary and Proper Clause is also called the Elastic Clause?

Implied Powers

Implied powers are not expressly stated in the Constitution. When you *imply* something, your intention is clear even though you don't actually say it. For example, if you have permission to go to the mall, you probably also have permission to go into the stores in the mall. Permission to go into the stores is *implied*.

In the Constitution, the implied powers of Congress come from the **Necessary and Proper Clause**. This is a part of the Constitution that says Congress may make any law that is "necessary and proper" for carrying out its expressed powers. So the Constitution doesn't say Congress has the power to create a Postal Service website, but it does say Congress can establish post offices. Permission to create the website is implied because it is "necessary and proper" to running the post office.

Federal Power in Action

Sometimes Congress exercises powers it does not appear to have. The Civil Rights Act of 1964 is a good example. Congress wanted to prohibit racial discrimination in America... but that's not on the list of powers Congress has. So how could Congress do this? They did it by finding a link between racial discrimination and "interstate commerce"—something Congress *does* have power over. The Civil Rights Act prohibits racial discrimination by any facility that has anything to do with interstate commerce, which almost everything does. Finding these kinds of links is how Congress takes many actions that, at first, appear to be beyond its power.

WHITE ONLY

During the long period of legal discrimination known as "Jim Crow," people of color often had trouble finding businesses that would serve them, especially in the South.



Today's Federalism Debate

Just as when the nation was born, many people today are concerned about a powerful federal government. They worry that their freedom will be limited if the federal government makes decisions that should be made by local governments. At the same time, others worry that some issues need one decision that applies to everyone. They believe it isn't fair when some states do more or less to address a problem than other states do. If you follow the news, you'll see the federalism debate everywhere: Does the federal government have the power to pass laws about guns? Health care? Schools? The variety of opinions on these questions are all part of the two-hundred-year-old struggle between federal and state power.

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If Not Federalism, Then What?

When the Founders wrote the Constitution, they could have chosen any type of government. What if they had chosen something else? Would it have lessened the power struggle between the states and the central government? Maybe, but there are benefits and drawbacks to any type of government. The following activity compares federalism with two other forms of government.

Read about each type and mark each characteristic S if it's a strength and W if it's a weakness. What role does the central government play?

Federal: Set of Chairs

A *federal* form of government splits power between independent states and a central government. The power rests in both places, and each gets its authority from a governing document, like the U.S. Constitution. Independent branches inside the central government may also share power.

- ___ There is national unity, but local governments can act as well
- ___ Citizens have more opportunities to be heard
- ___ Services can be duplicated by different levels of government
- ___ Disputes occur between national power and states' rights



The states and central government must work together and balance each other out, like a set of chairs around the table.



A confederation of states is like a bunch of different chairs grouped together. They hold power independently but work collectively.

Confederal: Many Different Chairs

The *confederal* form of government is an association of independent states. The central government gets its authority from the independent states. Power rests in each individual state, whose representatives meet to address the needs of the group. America tried a confederal system before the Constitution. It didn't work because the states did not give the central government enough power to do its job.

- ___ Keeps the power of government at the local level
- ___ States cooperate without losing their independence
- ___ Central government may be too weak to be effective
- ___ Laws may differ from state to state; no uniformity

Unitary: One Big Chair

In a *unitary* form of government, all the power rests in a central government. The country may be divided into states or other sub-units, but they have no power of their own. For example, England depends on its Parliament, a legislative body, to create and enforce the laws in the country. The leader of the nation, the Prime Minister, is a member of the Parliament and does not have any more power than its members.

- ___ Uniform laws, policies, and enforcement across the country
- ___ Little conflict between state and national governments
- ___ Government may be slow to meet local problems
- ___ Difficult to meet all the needs of all the citizens



A unitary government is like one really big chair, with all of the government's power sitting in one place.