

Topic 3: The Constitution

Mrs. VanAlstine

An Overview of the Constitution

An Outline of the Constitution

The Basics

Think of This...

230 years old?!

The Articles of Confederation formally established the United States of America as a nation in the world, but at the price of a weak government. The new Constitution created a stronger federal government

This enduring document dates from the latter part of the eighteenth century. Its enormous age does not mean, however that it should be placed in a museum and ignored. In fact, it is a vital part of the daily lives of Americans!

Supreme Law of the Land

The Constitution is the nation's fundamental law. In the document itself, it states that it is the "*supreme law of the land*".

It is the highest form of law in the United States of America.

So what does it do? What is actually in the document?

To really understand government and politics in this country, we must know a good deal about the Constitution and how it has been interpreted and applied throughout our history.

Sets the Rules

1. Sets out the basic principles on which government in the United States was built and operates today.
2. Lays out the ways in which the Federal Government is organized, how the leaders of that government are selected, and many of the procedures those leaders must follow as they perform their duties.
3. Sets out the limits within which government must conduct itself.
4. Lays out the basic rules of American politics.

Table of Contents:

Just over 7,000 words and can be read in about 30 minutes!

1. **The Preamble:** *“We the people...”*
2. **Article 1:** *Legislative Branch*
3. **Article 2:** *Executive Branch*
4. **Article 3:** *Judicial Branch*
5. **Article 4:** *Relations Among States*
6. **Article 5:** *Amending the Constitution*
7. **Article 6:** *Supremacy of Law*
8. **Article 7:** *Ratifying the Constitution*
9. **The Amendments:** *1-27 in order according to when each was adopted*

Stick to the Basics

One of the Constitution's greatest strengths is that it deals largely with matters of basic principle. Unlike most other constitutions—those of the 50 States and those of other nations—the Constitution of the United States is not weighted down with detailed and cumbersome provisions.

Why do you think that the national Constitution is less detailed than those of the States?

Article I

The Legislative Branch

Immediately, the Constitution establishes a **bicameral** legislature—that is, a legislature made up of two houses. It does so for historical, practical, and theoretical reasons.

Historical

The British Parliament had consisted of two houses since the 1300s. The Framers and most other Americans knew the British system of bicameralism quite well. Most of the colonial assemblies and, in 1787, all but two of the new State legislatures were also bicameral.

Practical

The Framers had to create a two-chambered body to settle the conflict between the Virginia and the New Jersey Plans at Philadelphia in 1787.

Bicameralism is a reflection of federalism. Each of the States is equally represented in the Senate and each is represented in line with its population in the House.

Theoretical

The Framers favored a bicameral Congress in order that one house might act as a check on the other.

The Framers saw bicameralism as a way to diffuse the power of Congress and prevent it from overwhelming the other two branches of government.

Article II

The Executive Branch



The Executive Article

The executive Power shall be vested in a President of the United States of America.

—Article II, Section 1

With this one sentence, the Framers laid the basis for the vast power and influence that the nation's chief executive possesses today.

Thus, the President is given the power to:

1. command the armed forces
 2. to make treaties
 3. to approve or veto acts of Congress
 4. to call special sessions of Congress
 5. to send and receive diplomatic representatives
 6. to “take Care that the Laws be faithfully executed.”
-

...and that's
basically all it
says...seriously!
Does that seem
sketchy to you?

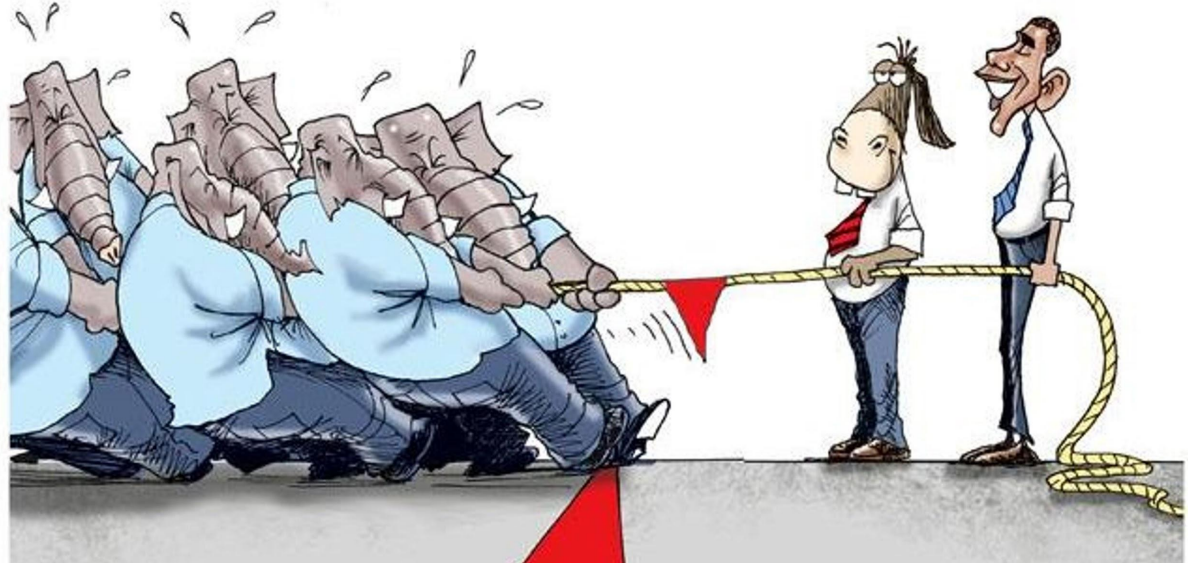
It seems sketchy to me!

Article II reads almost like an outline! It has been called “the most loosely drawn chapter” in the nation’s fundamental law.

It does not define **“the executive Power,”** and the other grants of presidential power are listed in extremely broad terms with very little description or restriction!

Is it any wonder that this article has been the source of ongoing political struggles throughout the nation’s history?!

The eternal tug-o-war for power between Congress and the President



Article III

The Judicial Branch

The Problem

...those darn Articles strike again!

During the years the Articles of Confederation were in force, there was no plan for federal courts or a national judiciary.

The laws of the United States were interpreted and applied as each State saw fit, and sometimes not at all.

Disputes between States and between persons who lived in different States were decided, if at all, by the courts in one of the States involved.

Often, decisions by the courts in one State were ignored by courts in the other States.

The Solution

...the Constitution to the rescue!

The judicial Power of the United States shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.

—Article III, Section 1

Congress also is given the expressed power ***“to constitute Tribunals inferior to the supreme Court”***—that is, create the rest of the federal court system.

There are TWO separate court systems in the United States..

The National Judiciary

Spans all 50 States and is made up of over 100 courts.

1. **The Supreme Court**
2. **Inferior Courts**
(Constitutional Courts and Special Courts)

The 50 State Court Systems

Made up of thousands of courts that hear the majority of cases in the United States - in the State, not Federal, courts.



The Six Basic Principles of the Constitution

The Constitution is built on six principles, or morals, that guide the entire workings of the American form of democracy...like the morals by which you live your life!

Popular Sovereignty

Power to the PEOPLE!

The people are the **only** source for any and all government power.

Government can govern only with the consent of the governed.

*“We the **People** of the United States...do ordain and establish this Constitution for the United States of America.”*

Limited Government

No government is all-powerful!

The government may only do the things that the people have given them the power to do.

Constitutionalism: *government must be conducted according to constitutional principles.*

Rule of Law: *the government and its officers, in all they do, are subject to - never above - the law.*

Separation of Powers

Remember presidential vs. parliamentary?

The Constitution distributes the powers of the National Government among:

1. The Congress (Legislative)
2. The President (Executive)
3. The Supreme Court (Judicial)

This separation is established in the opening words of each of the first three articles of the Constitution.

“All legislative Powers herein granted shall be vested in a Congress...” -Article I

“The executive Power shall be vested in a President...” -Article II

“The judicial Power of the United States shall be vested in one supreme Court...” -Article III

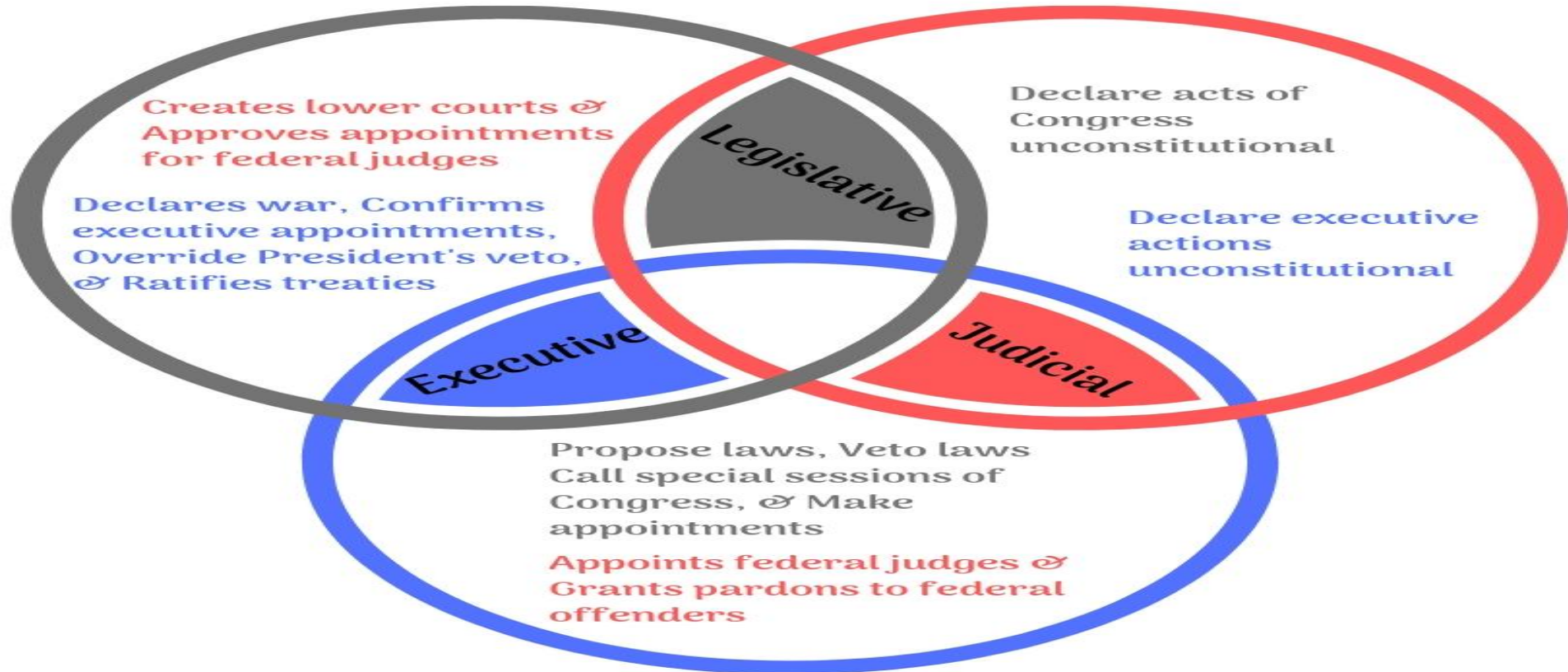
Checks and Balances

Keeps each of the branches from becoming TOO powerful!

The three branches are not *entirely* independent from one another because they are tied together by this complex system.

Each branch is subject to a number of constitutional checks, or restraints, by the other branches.

Checks and Balances at Work



...includes but is not limited to...

Judicial Review

*Part of Checks and Balances but is **SO IMPORTANT** that it is its own principle!*

The power of a court to determine the **constitutionality** of a governmental action (or law).

So...really, it is the ability of a court to declare a law or governmental action **unconstitutional** - illegal, null and void, of no force and effect.

This power is held by all federal courts and most State courts as well.

While this principle isn't necessarily found in the Constitution, it is implied by the Framers in documents such as **Federalist No. 51** and **78**.

This power was established by the Supreme Court in the landmark case of **Marbury v. Madison** in 1803.

...we will be looking at this case later...

Federalism

*Government powers are
SHARED!*

As we have discussed before, the American government is **federal** in form. Governmental powers are distributed between the National Government (three branches) and the 50 State governments.

These powers are divided based on which level of government will know **what is best** for the people being impacted by the power.

Who Has the Power?

National

- Maintain army and navy
- Declare war
- Coin money
- Regulate trade between States and with foreign nations
- Make treaties

Shared

- Enforce laws
- Establish courts
- Borrow money
- Collect taxes
- Make laws

State

- Conduct elections
- Establish schools
- Regulate business within a State
- Establish local governments
- Regulate marriage & divorce

Amending the Constitution

Think of This...

An Enduring Document

The Constitution went into effect in 1789 when America was an agricultural nation made up of 13 States with fewer than four million people living on land that stretched 1,300 miles along the eastern edge of the continent.

Today, there are 50 States that span over 3 million sq. miles and are home to more than 300 million people!

These two very different, yet the same, countries have been functioning with same founding document while navigating VERY DIFFERENT issues, commitments, and levels of development.

HOW?!

AMENDMENTS

...both *formal* and *informal*...

amendment:

change in written
words

Article V of the Constitution provides *two methods of proposal* and *two methods of ratification* of an amendment.

That means, when we make all possible combinations (**proposal and ratification**), there are four total methods of adding amendment to the Constitution.

AMENDING THE CONSTITUTION

METHOD 1

PROPOSED by Congress
by a 2/3 vote in each house



RATIFIED by 3/4
of the State legislatures

OR



RATIFIED
by conventions in
3/4 of the States

METHOD 2

PROPOSED at a
national convention
called by Congress when
requested by 2/3 of the
State legislatures



RATIFIED by 3/4
of the State legislatures

OR



RATIFIED
by conventions
in 3/4 of the States

The Amendment Process and the Principles

Federalism

Note that this process emphasizes the *federal character* of our governmental system.

Proposal takes place at the National level.

Ratification takes place at the State level.

Popular Sovereignty

The ratification of amendments is a *State-by-State matter*. The elected legislators who are responsible for the ratification, *or rejection*, of an amendment were elected by the people to act on the sovereign will of the people.

The 27 Amendments

...and their importance...

Keep in mind that while the amendments to the Constitution are significant to the rights and lives of Americans, *they are NOT a major or essential part of the process by which our government functions.*

The Bill of Rights

The first 10 amendments were added less than 3 years after the Constitution became effective. Each amendment was born out of the controversy surrounding the ratification of the Constitution itself. Remember, this list of guaranteed rights to the people was added at the insistence of Anti-Federalists to secure their support of the Constitution.

The Bill of Rights

1	<ul style="list-style-type: none">• Freedom of religion, speech and the press• Freedom to peaceably assemble and to petition the government	6	The right to: <ul style="list-style-type: none">• a speedy trial by an impartial jury• be informed of the charges, to cross-examine witnesses, and to present favorable witnesses• an attorney
2	<ul style="list-style-type: none">• The right to maintain a militia• The right to bear arms	7	The right to trial by jury in any civil case where the amount of money involved is \$20 or more
3	Protection from having to quarter (house) soldiers in a time of peace without the consent of the owner, nor in a time of war except as provided by law	8	Protection from: <ul style="list-style-type: none">• excessive bail or fines• cruel and unusual punishment
4	Protection against arbitrary searches and seizures without a proper warrant	9	The fact that the Constitution spells out a number of civil rights does not mean that there are not other, unwritten, rights held by the people.
5	Protection from: <ul style="list-style-type: none">• prosecution without an indictment• being tried for the same crime twice• having to testify against oneself• the loss of life, liberty, or property without due process of law• loss of property without just compensation	10	The powers not delegated to the Federal Government may be exercised by the States, as long as they are not prohibited by the Constitution.

Later Amendments

The remaining amendments were added one at a time over the course of 200 years. Each one responding to a particular interesting event or set of circumstances.

This website is awesome and will be useful for the next few weeks!

11th Amendment

1795

No State may be sued in the federal courts by a citizen of another State or by a citizen of a foreign country.

It is the result of the Supreme Court case *Chisholm v. Georgia*. This case arose out of a dispute over ownership of some land in Georgia. Chisholm was a man from South Carolina.

12th Amendment

1804

Changed the procedure for the Electoral College in the selection of the President and Vice President.

The Electoral College failed to produce a clear winner (president) of the election of 1800.

13th Amendment

1865

Abolished slavery in the United States.

This was a direct result of the Civil War. But all this did was **free** the slave....nothing else.

14th Amendment

1868

Defines citizenship as “all persons born or naturalized in the United States”. This granted all freed slaves citizenship.

Another result of the Civil War. This was bitterly contested by southern States, who were forced to ratify it in order to regain representation in Congress.

15th Amendment

1870

Prohibits the denial of voting rights based on a citizen's "race, color, or previous condition of servitude".

Fringe benefit of the Civil War. The United States was finally figuring out how to integrate freed slaves into society.

18th Amendment

1919

Established a nationwide prohibition on “the manufacture, sale, or transportation of intoxicating liquors”.

The result of societal issues and the rise of the Temperance Movement.

21st Amendment

1933

Repeal of the 18th Amendment.

Public support for Prohibition had greatly diminished by 1930....also, BOOTLEGGING and SPEAKEASIES!

22nd Amendment

1951

Limits the number of terms that a president can serve to two.

President Franklin D. Roosevelt served out a full three, and partial fourth, term before he died in office.

25th Amendment

1967

Established the order of presidential succession.

The concept that this amendment established was only a *custom* until its passage in 1967. This states that the Vice President should assume the role of President if the acting President is removed from office or dies.

Prior this amendment, the VP only assumed the “roles of the President”, not the job.

26th Amendment

1971

Lowered the voting age from 21 to 18 nationwide.

Proponents of this amendment began work on it during WWII, creating the slogan “*old enough to fight, old enough to vote!*” The ratification of this amendment was spurred by the unpopular Vietnam War.

27th Amendment

1992

Forbids members of Congress from raising their own pay during that term.

Written by James Madison and proposed with the original Bill of Rights, this amendment only took 203 years to ratify!

Besides the addition of formal amendments, there are other ways to “change” the Constitution.

The Framers would likely be shocked that only **17 amendments** have been made to their original in the 200+ year since adoption. But then again, they purposefully made the amendment process *lengthy and difficult* in order to curb the number of senseless, unessential changes being made to the Constitution by the **flawed emotions of humans**.

Since the Constitution is such a *brief document* that is truly only a skeleton for the workings of American government, there is much in it that **cannot be seen with the naked eye**. This means that, over the years, there have been countless *interpretations* of our nation’s “rule book”.

These differing interpretations act as changes to the document without even changing one single written words!

Five

...key ways that the Constitution is changed WITHOUT a formal amendment...

“The Informal Amendments”

Basic Legislation

Who: Congress

What: When Congress passes laws that are in line with the provisions of the Constitution, it adds “meat” to the skeleton of the document.

Executive Action

Who: The President

What: The way in which Presidents use their powers granted to the by the Constitution has contributed to the growth of the document.

The Most Common “Executive Actions”

Executive Agreement

A pact made by the President directly with the head of a foreign nation.

Treaty

A formal agreement between two or more sovereign nations.

So what's the difference?!

Treaties must be approved by the Senate; **executive actions**, however just as legally binding, do not.

Court Decisions

Who: The Supreme Court (*and other federal courts*)

What: The nation's courts interpret and apply the Constitution in many cases that they hear. With each case decision, they change or add to the meaning or understanding of the Constitution's provisions.

Party Practices

Who: The nation's political parties

What: The Constitution makes no mention of them, yet they are a major part of our political process.

Examples of Party Practices

(1) Neither the Constitution or any law provides for the nomination of candidates for the presidency, yet since the 1830s, the nation's parties have held national conventions to do just that.

(2) The parties have converted the **electoral college**, *the body that makes the formal selection of the nation's President*, from what the Framers intended it to be into a “rubber stamp” for each State's popular vote.

(3) Both houses of **Congress** are organized and conduct much of their business on the basis of party. The **President** also makes many appointments to offices with an eye to party politics.

Customs

Who: The entire nation

What: Unwritten customary practices in the government that are as strong as written law.

Examples of Customs

(1) By custom, not because of the Constitution, the heads of the 15 executive departments make up the **Cabinet**, an *advisory body to the President*.

- *Secretary of State*
- *Secretary of Defense*
- *Secretary of Education*
- *...ect...*

(2) On each of the 8 occasions when a President has died in office, **the Vice President succeeded to that office** – most recently **Lyndon B. Johnson**, following the assassination of John F. Kennedy in 1963.

The written words of the Constitution did not provide for this practice until the adoption of the 25th amendment in 1967.

(3) It is a long-established custom that the Senate will approve only those presidential appointees, such as a federal judge or a United States marshal, who are acceptable to the senator or senators of the President's party from the State involved. This practice is called **senatorial courtesy**.

(4) For nearly 150 years, the **"no-third-term tradition"** was a closely followed rule in presidential politics because George Washington refused to seek a third term. Many presidents followed that custom until FDR. As a direct result, the 22nd amendment was added.

Federalism: Powers Divided

Think of This...

A Very Complex Balance

Federal law requires:

1. Young men to register for military service at age 18
2. Most employers to pay their workers at least the minimum wage set by Congress
3. That no person can be denied a job on the basis of his or her race/ethnicity

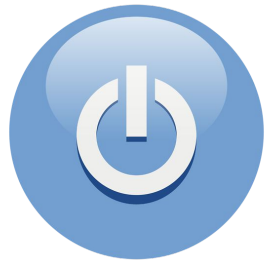
State law requires:

1. Every driver to have a valid driver's license
 2. Citizens to be 21 years old to buy alcohol
 3. Certain requirements to be met in order for citizens to purchase a firearm
-

The Problem

When the Framers met in Philadelphia in 1787, they were faced with many difficult questions.

Not the least of them: *How could they possibly create a new central government that would be strong enough to meet the needs of the day and would, at the same time, preserve the already existing States?*



The Framers were convinced that...

1. governmental power inevitably poses a threat to individual liberty,
2. that therefore, the exercise of governmental power must be restrained, and
3. that to divide governmental power, as federalism does, is to prevent its abuse.

Federalism

The Solution

Federalism:

A system of government in which a written constitution divides the powers government on a territorial basis, between a central government and several regional governments.



While the National Government has powers that allows it to govern the States and keep them united, each State has their own government to respond to and govern local matters.

Federalism

Strengths

It allows for local actions in matters of local concern and nation action in matters of wider concern.

States located in earthquake zones may need to pass laws regarding earthquake-resistant building codes while States along the coasts may need to enact policies related to flooding, fisheries, or maritime commerce.

It allows for experimentation and innovation in solving public policy issues.

Described as “*laboratories of government*”, many solutions to difficult political matters originate in one State and are adopted by others, or even implemented at the National level.

It provides for strength that comes from the unity of the States as one Nation.

National defense, foreign affairs, and aid in the aftermath of natural disasters are all benefits that the States receive from the national government!

Three Types of Federal Powers

The National government is a government of **delegated powers** - has only those powers granted to it by the Constitution.

Expressed Powers

Delegated Power #1

These are spelled out in the Constitution - written expressly in the document.

Most of these powers are listed in Article I, Section 8 in 18 clauses that grant Congress 27 different powers.

Article II, Section 2 grants specific powers to the President and Article III, grants the judicial power of the US to the Supreme Court.

Implied Powers

Delegated Power #2

These powers **are NOT** expressly stated in the Constitution, but they are reasonably suggested - implied - by the expressed powers.

Constitutional basis for these powers is found in one of the expressed powers in Article I, Section 8, Clause 18 (*the Necessary and Proper Clause*):

"...to make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."

Inherent Powers

Delegated Power #3

These are powers that the National Government possesses because it is, in fact, *the national government of a sovereign state in the world community.*

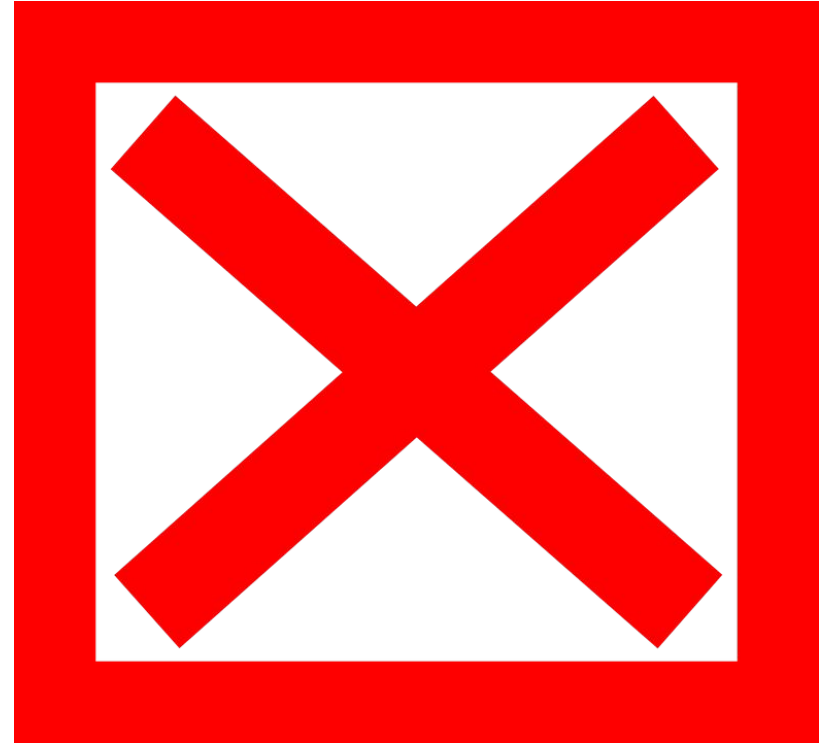
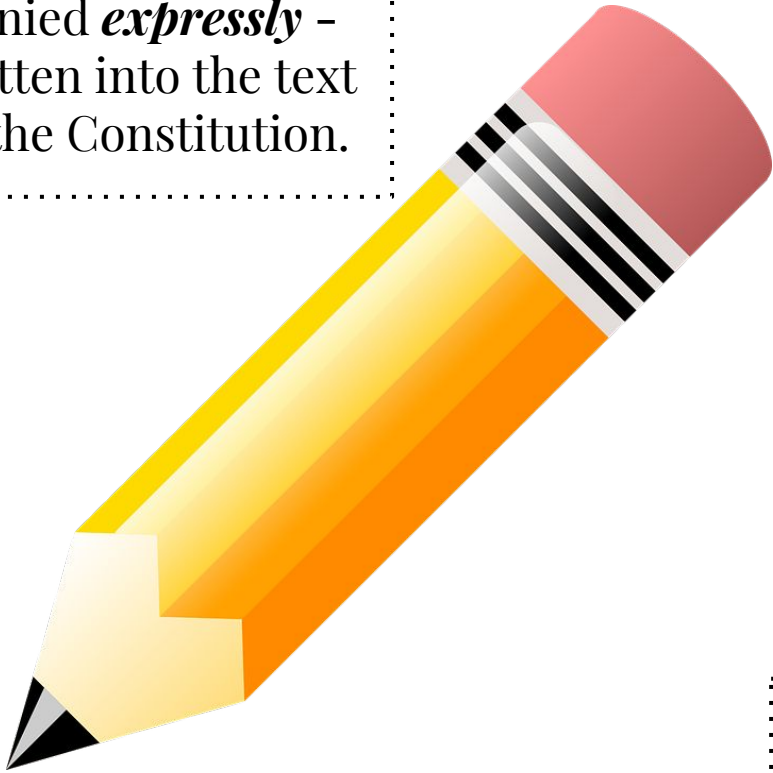
While the Constitution does not expressly provide for them, they are powers that **ALL national governments** have come to possess.

There are very few of these powers:

1. *Regulate immigration*
 2. *Deport aliens*
 3. *Acquire territory*
 4. *Grant diplomatic recognition to other states*
 5. *Protect the nation against rebellion or invasion*
-

*The Constitution also
DENIES powers to the
National Government in
order to keep **federalism**
intact.*

Some powers are denied *expressly* - written into the text of the Constitution.



Some powers are denied because of the Constitution's silence on certain matters.

Examples of Powers Expressly Denied to the Federal Government

POWER DENIED	EXAMPLE OF ILLEGAL USE OF POWER
Levy taxes on exports	The Federal Government levies a tax on coal exports from Pennsylvania to Canada.
Take private property for public use without payment of compensation	The Federal Government appropriates a farmer's land to build a highway, and offers him no compensation.
Prohibit freedom of religion, speech, press, or assembly	The Federal Government enacts a law stating that no one may make a speech outside of public buildings.
Conduct illegal search or seizure	The Federal Government sends an agent without a warrant to find and confiscate a business's financial records.
Deny a speedy trial to an accused person	The Federal Government holds a suspected criminal in jail without trial for two years.

The 50 States are the other half of the equation that we call FEDERALISM.

Powers Reserved to the States

Remember that the 10th amendment provides for powers that are denied to the National Government to be reserved to the States!

1. Conduct elections
2. Establish schools
3. Regulate business within a State
4. Establish local governments
5. Regulate marriage & divorce

Powers Denied to the States

Just as the Constitution denies powers to the National Government, it also denies powers to the States.

1. No State can enter into a treaty or alliance or confederations
2. No State can print or coin money
3. No State can deprive a person of life, liberty, or property without due process of law.
4. No State can tax the National Government

Exclusive vs. Concurrent Powers...*See the venn diagram Mrs. V gave you...*

Exclusive Powers are those powers that the Constitution grants to **ONLY** the National Government.

Concurrent Powers are those powers that the Constitution grants to **BOTH** the National and State Governments.

The Supremacy Clause

*“This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be **the supreme Law of the Land...**”*

The Constitution is
above all other laws
created in the United
States - *Federal, State,
or Local!*

The Supreme Court and Federalism

They are the “umpire” of the federal system.

One of the chief duties of the Supreme Court is to apply the Constitution’s Supremacy Clause to the conflicts that the dual system of government produces.

1. *McCulloch v. Maryland, 1819*
2. *Fletcher v. Peck, 1810*

*...we will read about these cases and their impact on **federalism** in class...*

The National Government and the States

Think of This...

The Meaning of “*United States*”

The Framers of the Constitution created the union of States and intended to preserve it. So, the Constitution...

1. Requires the National Government to guarantee certain things to the States
 2. Makes it possible for the National Government to do certain things for the States
-

Three

..Constitutional obligations of the National Government to the States..

Republican Form of Government

*“...guarantee to every State in this
Union a Republican Form of
Government...”*

The Constitution does not define
this and the Supreme Court has
routinely refused to do so as well.

It is generally understood to mean
“representative government”.

Making War, Keeping Peace

“... protect each of them [States] against Invasion; and on Application of the Legislature, or of the Executive (when the Legislature cannot be convened) against domestic Violence.”

An invasion of any one of the States would be met as an attack on the United States itself.

The federal system assumes that each of the 50 States will keep peace within its own borders, but because States do not have their own militias, there is sometimes need for the national military to help control situations of protest or unrest.

Protection and assistance from nature - storms, floods, drought, fires, etc - is also offered by the National Government under this obligation.

Respect for Territorial Integrity

Recognition of the legal
existence and physical
boundaries of each State.

Example: Congress may not
deprive a State of its
representation in the National
Government.

Example: The National
Government may not create a State
out of the territory of an existing
State.

New States

The fact that new States would soon join the original 13 was a generally accepted fact in the 1780s. In preparation for that, the Congress of the Confederation, enacted the Northwest Ordinance of 1787.

Northwest Ordinances

1787 & 1790

Watch Me!



**THE NORTHWEST
ORDINANCE
OF 1787**

Only Congress has the power to admit new States into the Union

*This has not happened since the admission of **Alaska** and **Hawaii** in 1959.*

1. The area desiring Statehood must ask Congress for admission.
2. If/when Congress chooses, it passes an *enabling act*.
3. A convention in the area requesting admission prepares a constitution.
4. The constitution is put to a popular vote in the proposed State.
5. If approved, the constitution is submitted to Congress for consideration.
6. If Congress still agrees to Statehood, it passes an *act of admission*.
7. As long as the President signs the act, the new State enters the Union.

Conditions for Admission

Although each State entered the Union on equal footing with the other States, Congress is able to set *certain conditions* for admission that are **NOT of a political nature**.

Examples

Utah - Admitted on the condition that its constitution outlaw polygamy, the practice of having more than one spouse at a time.

Alaska - Admitted on the condition that the State never claim title to any lands legally held by Native Americans.

...Vocabulary...

Enabling Act – *an act directing the people of the territory to draft a proposed State Constitution*

Act of Admission – *an act officially creating the new State*

Cooperative Federalism – *how the State and National governments act out their shared, concurrent, powers*

Cooperative Federalism

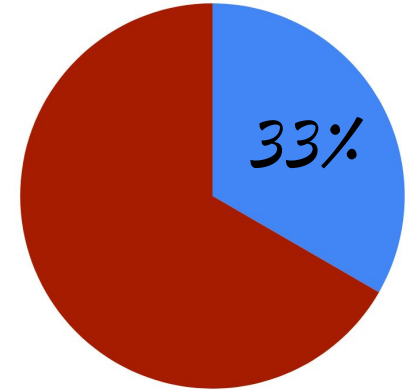
States and Federal Government Sharing Resources

Reminder

Federalism provides for the DIVISION and SHARING of powers and resources
between the State and National Governments

Federal-Grants-In-Aid

1. Grants of federal money or other resources to the States. *These grants often help local governments perform their everyday functions.*
2. **Examples of federal grant purposed throughout history:**
 - a. Schools and colleges
 - b. Roads and canals
 - c. Flood control work
3. In **1808**, States were given \$200,000 to support the militia.
4. The Depression era of the **1930S** saw many grants via various New Deal Programs.
5. There are more than **500 Federal-Grants-In-Aid** in operation now.
 - a. **Total is over \$400 billion**
 - b. **Account for 33% of all State spending per year.**



More On Federal Grants - In - Aid



These grants - in - aid make it possible for the *Federal Government* to operate in many policy areas in which it would otherwise have no constitutional authority.

1. Education
2. Low-income housing
3. Local law enforcement
4. Mental health



Critics of grants - in - aid argue that the grants, that typically come *with strings attached*, give the Federal Government a major and unwarranted influence in the making of State and local public policy.

Proponents of these grants point out that many programs and projects at the State and local levels would be *impossible without* the grants of money made by the National Government.

TYPES OF FEDERAL GRANTS TO STATES



BLOCK

Funds used for **BROAD PURPOSES** where States have freedom to decide how to spend the money.

EXAMPLES

- Social Services
- Transportation
- Education



CATEGORICAL

Funds used for **CLOSELY DEFINED PURPOSES** with conditions set by Federal Government.

EXAMPLES

- Construction of airports
- Distribution of school lunches
- Construction of wastewater plants
- Support for senior centers



PROJECT

Funds used for **INDIVIDUAL PROJECTS** that States, localities, and private agencies compete for.

EXAMPLES

- Research into diabetes treatments
- Implementation of an innovative educational program
- Digitization of a local library

Other Types of Federal Aid

The National Government aids the States in ways other than just grants of money

*The FBI gives
extensive help
to State and
local police.*



The Army and Air Force equip and train each State's National Guard Units



U.S. AIR FORCE

CENSUS BUREAU

A hand with light-colored nail polish is holding a blue marker, drawing a thick blue horizontal line that underlines the title 'CENSUS BUREAU'. The hand is positioned on the right side of the frame, with the marker tip pointing towards the left.

The Census Bureau's data are essential to State and local school, housing, and transportation officials as they plan for the future.

A Two-Way Street

Intergovernmental cooperation requires that the States also provide aid or services to the National Government.

1. State and local election officials *conduct national elections*. These are financed with State and local funds, and regulated by State laws.
2. The legal process by which *(naturalization)* takes place in State courts.

...and list goes on and on...

Agreements Among the States

The Constitution reduces interstate friction by prohibiting the States from entering into treaties, alliances, or confederations with one another.

Interstate Compacts

States are, however, allowed to make these agreements with one another.

Only 36 of them had been made by 1920.

The number has exploded over years and there are now over 200 in force today!

All 50 States belong to:

1. Compact for Supervision of Parolees and Probationers
2. Compact on Juveniles

Other agreements covering wide ranges of topics exist as well. Many deal with the conservation of resources.

The Constitution
crosses State lines
with the use of these
clauses/provisions.

Full Faith and Credit Clause

“Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State.”

Public Acts - the laws of a State

Records - documents such as birth certificates, marriage licenses, deeds to property, car registration, etc...

Judicial Proceedings - the outcome of court actions: damage awards, probating of wills, divorce decrees, etc...

Full Faith and Credit Example Scenario

Allen sues Bill in Florida, and the Florida court awards Allen \$50,000 in damages. Bill cannot escape payment of the damages by moving to Georgia, because Allen could simply ask the Georgia courts to enforce the damage award. The Georgia courts would have to give full faith and credit to – recognize and respect the validity of – the judgement made by the Florida court.

Exceptions

...to the Full Faith and Credit Clause

1. It applies to civil, not criminal, matters.
 - a. One State cannot enforce another State's criminal laws.

 2. Full Faith and Credit need not be given to certain divorces granted by one State to residents of another State.
 - a. You must be a resident of the State in which you get divorced.
-

Extradition

“A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.”

-Article IV, Section 2, Clause 2

Extradition - the legal process by which a fugitive from justice in one State can be returned to that State.

1. Designed to prevent a person from escaping justice by fleeing a State.
2. Typically a **routine matter**; governors regularly approve the extradition requests they receive from other States' governors.
3. Requests possibly **contested**:
 - a. Racial Issues
 - b. Political Issues
 - c. Parental Kidnapping

Privileges and Immunities Clause

“The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.”

-Article IV, Section 2, Clause 17

Privileges and Immunities - means that no State can draw **unreasonable** distinctions between its own residents and those persons who happen to live in other States.

Each State:

1. Must recognize the right of any American to **travel in or become a resident of that State.**
2. Must allow any citizen, no matter where he or she lives, to **use its courts and make contracts;** *buy, own, rent or sell property; or marry within its borders.*

Privileges and Immunities Clause

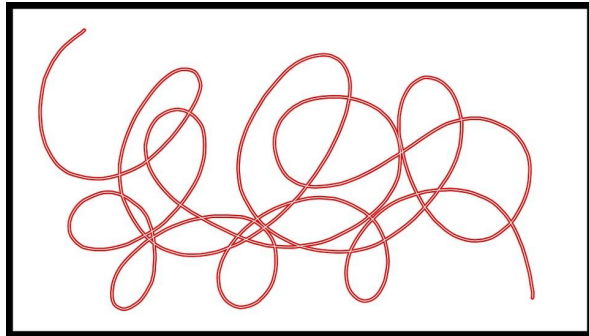
The Privileges and Immunities Clause of Article IV ensures that an out-of-state citizen enjoys the same privileges as a citizen of the state in which he happens to find himself.



Reasonable vs. Unreasonable Distinctions

Unreasonable Distinctions

States may **NOT** try to relieve unemployment issues by requiring employers to give hiring preference to in-State residents first.



Reasonable Distinctions

States may draw reasonable distinctions between its own residents and those of other States.

1. Residency requirement for voting or holding public office
2. Colleges set higher tuitions for out-of-State students
3. Residency requirement to be licensed to practice law, medicine, etc

