

The "Federal" in Federalism

Time Needed: One class period

Materials Needed:

Student Worksheets

Projector (*optional*)

Tape

Copy Instructions:

Reading (*3 pages; class set*)

Federal Power Cheat Sheet (*1 page; class set*)

Review worksheets (*2 pages; class set*)

Venn Activity powers (*cut in advance*)

Learning Objectives Students will be able to:

- Define federalism and explain the division of power between states and the federal government
- Identify expressed, implied, reserved, and concurrent powers
- Explain the significance of the Supremacy Clause and the Necessary and Proper Clause
- Describe the ongoing tension between federal and state power
- Compare and contrast federal, confederal, and unitary forms of government
- Identify the strengths and weaknesses of federalism

STEP BY STEP

**** PLEASE NOTE:** We recommend teaching our "State Powers: Got a Reservation?" lesson before having your class do the Venn diagram activity that appears in this lesson. The Venn activity makes a good wrap-up for this pair of lessons.

- ANTICIPATE** by asking students to think of ways the states in the United States are related and ways they are not related. Keep track of student answers on the board. Guide the class toward thinking about government: Does government bind states together? Do states have different governments?
- DISTRIBUTE** the reading to the class.
- READ** the reading pages together with the class, pausing to discuss as appropriate. (On page 2, the Necessary & Proper Clause is also called the "Elastic Clause" because it lets Congress "stretch" to meet new needs.] On the last page of the reading, work through the strength/weakness comparison activity together.
- CHECK** for understanding using the True/False informal assessment.
- DISTRIBUTE** the review worksheets to the class.
- ASSIGN** students to complete the review worksheets.
- DISCUSS** answers with the class if you wish.
- CLOSE** by asking students to think up one quiz question from today's lesson. Have them take turns quizzing a partner.

Venn Federal/State Powers Activity

- DISTRIBUTE** the quarter-page powers to the class so that each student has a power.
- PROJECT** the Venn diagram. (Or draw the Venn diagram on the board.) Explain to students that they must decide where the power they received belongs on the diagram.
- INSTRUCT** students to approach the board and place the power where they think it should go. You can choose to have students approach one at a time or all at once. Discuss each power either as you go (if students approach one at a time) or after all powers have been placed.

This lesson plan is part of the *Constitution* series by iCivics, Inc. a nonprofit organization dedicated to advancing civic education. Please visit www.icivics.org/teachers for more resources and to access the state standards aligned to this lesson plan.

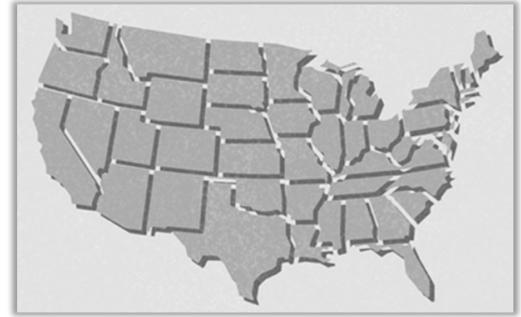
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The "Federal" in Federalism

Name: _____

United States

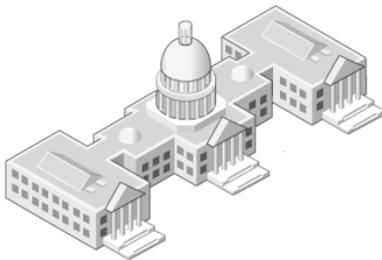
The United States is one country—but it's also a bunch of states. You could almost say it's a group of states that are... well... *united*. When our country was born, thirteen states already existed. Each one had been a British colony before gaining independence from Britain after the Revolutionary War. 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 and court system, so the new Americans weren't exactly 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. There also needed to be federal courts where citizens from different states could resolve their disputes.



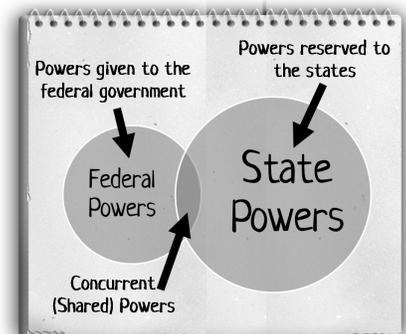
Government on Two Levels

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. 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. These powers are said to be **reserved** to the states. There also a few powers that both the states and the federal government share! These are called **concurrent powers** because *concurrent* means happening at the same time.

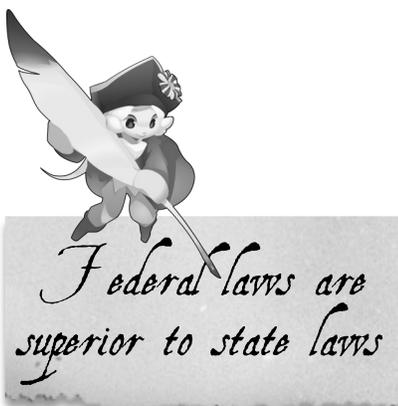


The Supremacy Clause

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.

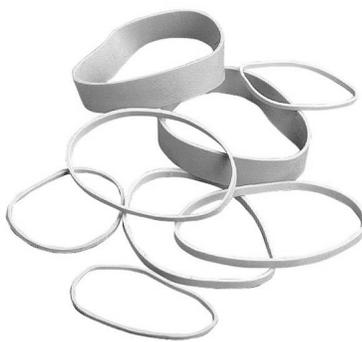
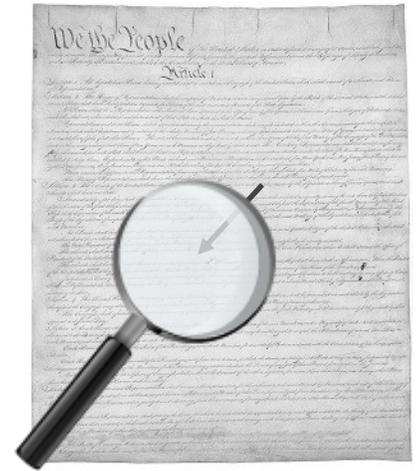


The "Federal" in Federalism

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Federal Power: Expressed Powers

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. That's because the Constitution gives a long list of powers that Congress has. For example, Congress has the power to coin money, declare war, and establish immigration laws. Some of the president's expressed powers include negotiating treaties with other countries, nominating justices to the Supreme Court, and pardoning people who have committed a federal crime.



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

Federal Power: 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.



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.

The "Federal" in Federalism

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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.

INFORMAL ASSESSMENT: TRUE/FALSE

Directions. Read each statement aloud to the class. Have the class answer by saying “True” or “False” as a chorus or by showing you thumbs-up for true and thumbs-down for false. Listen or watch for conflicting answers, indicating confusion. Briefly discuss each answer before moving on.

1. **States had no government at all when America was born.** (*F — each state had its own government*)
2. **America’s central government is known as the federal government.** (*T*)
3. **Federalism is the division of power between states.** (*F — between states and a central government*)
4. **The Constitution divides federal power among three branches of government.** (*T*)
5. **Powers not given to the federal government are reserved for the states or the people.** (*T*)
6. **Powers that states and the federal government share are called concurrent powers.** (*T*)
7. **The Supremacy clause says state laws are superior to federal laws.** (*F — it’s the other way around!*)
8. **Implied powers are stated in the constitution and expressed powers are not.** (*F — it’s the other way around*)
9. **The Constitution lets Congress do what is “necessary and proper” for carrying out its powers.** (*T*)
10. **Congress can’t pass laws that have anything to do with powers it doesn’t have, even if there is a link to a power it does have.** (*F — Congress often passes laws by finding links to the powers it has*)
11. **People today still debate about how much power states and the federal government should have.** (*T*)
12. **The Founders had to create a federal government system because there weren’t any other systems to choose from.** (*F — there are many types of government systems*)
13. **An association of independent states is called a unitary form of government.** (*F — confederal*)
14. **A unitary form of government does not divide power between a central government and lower governments.** (*T*)

Venn Diagram Activity

Directions. Before class, print and cut the quarter-page powers. To do the activity, project the large Venn diagram. Distribute the powers to students (there are 24 powers) along with a way for students to affix the powers to the diagram. Also give each student a Federal Powers Cheat Sheet. Have students attach their powers to the Venn diagram where they think the powers belong. Review and discuss.

Here are the answers:

Expressed and Implied Powers

- Print money
- Make rules about trade between states and nations
- Declare war
- Make treaties and deal with foreign countries
- Establish a post office
- Provide an army and a navy
- Make laws that are necessary and proper to carry out its powers
- Spend money for the general welfare
- Make copyright laws to protect authors’ writings
- Decide what units of measure we will use

Reserved Powers

- Issue driver’s and marriage licenses
- Conduct elections
- Establish local governments
- Make rules about business inside a state
- Use any power the Constitution doesn’t give the federal government or deny to the states
- Charter banks and corporations
- Run public schools
- Provide police and emergency services

Concurrent Powers

- Protect public health and safety
- Collect taxes
- Build roads
- Borrow money
- Establish courts
- Make and enforce laws

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Federal Power Cheat Sheet

Article I, Section 8 of the U.S. Constitution

The Congress shall have power to lay and **collect taxes**, duties, imposts and excises, to **pay the debts** and **provide for the common defense and general welfare** of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

To **borrow money** on the credit of the United States;

To **regulate commerce** with foreign nations, and among the several states, and with the Indian tribes;

To establish a uniform **rule of naturalization**, and uniform laws on the subject of **bankruptcies** throughout the United States;

To **coin money**, regulate the value thereof, and of foreign coin, and fix the **standard of weights and measures**;

To provide for the **punishment of counterfeiting** the securities and current coin of the United States;

To establish **post offices** and post roads;

To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

To constitute tribunals inferior to the Supreme Court;

To define and **punish piracies** and felonies committed on the high seas, and offenses against the law of nations;

To **declare war**, grant letters of marque and reprisal, and make rules concerning captures on land and water;

To raise and support **armies**, but no appropriation of money to that use shall be for a longer term than two years;

To provide and maintain a **navy**;

To make rules for the government and regulation of the land and naval forces;

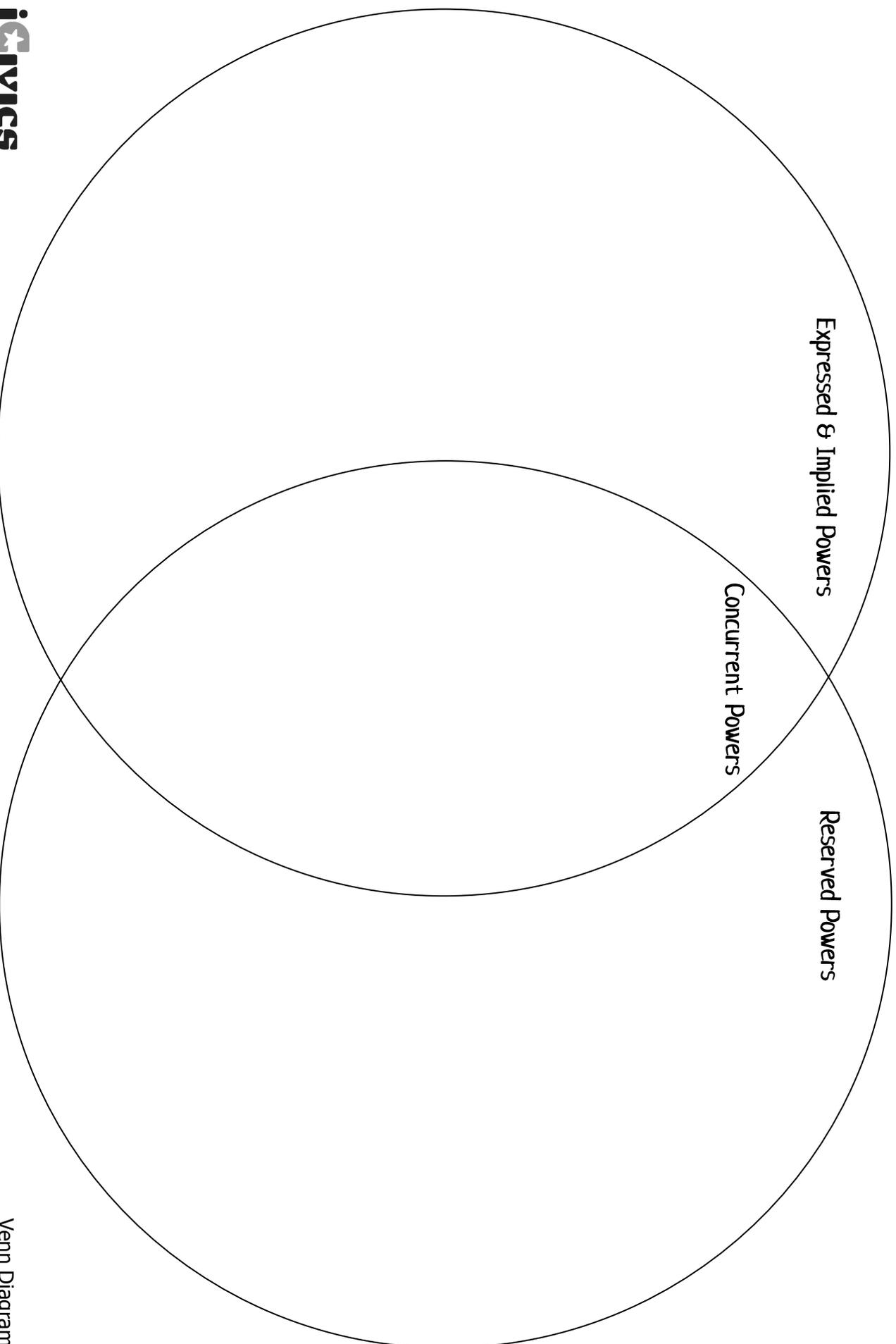
To provide for calling forth the militia to execute the laws of the union, suppress insurrections and repel invasions;

To provide for organizing, arming, and disciplining, the **militia**, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

To exercise exclusive legislation in all cases whatsoever, over such District (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings; - - And

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.

The "Federal" in Federalism



Print

money

iCIVICS

Declare

War

iCIVICS

Make rules
about trade
between states

and nations

iCIVICS

Make treaties
and deal with
foreign countries

iCIVICS

Establish a
post office

iCIVICS

Issue driver's
and marriage
licenses

iCIVICS

Provide an
army and a
navy

iCIVICS

Make laws that
are necessary and
proper to carry
out its powers.

iCIVICS

Conduct
elections

iCIVICS

Establish local
governments

iCIVICS

Make rules
about business
inside a state

iCIVICS

Protect public
health and
safety

iCIVICS

Collect
taxes

iCIVICS

Use any power the
Constitution doesn't
give the federal
government or deny
to the states

iCIVICS

Build Roads

iCIVICS

Borrow
Money

iCIVICS

Establish
courts

iCIVICS

Spend money
for the general
welfare

iCIVICS

Make and
enforce laws

iCIVICS

Charter banks
and
corporations

iCIVICS

Make copyright
laws to protect
authors' writings

iCIVICS

Run Public
Schools

iCIVICS

Provide police
and emergency
services

iCIVICS

Decide what
units of measure
we will use

iCIVICS

The "Federal" in Federalism

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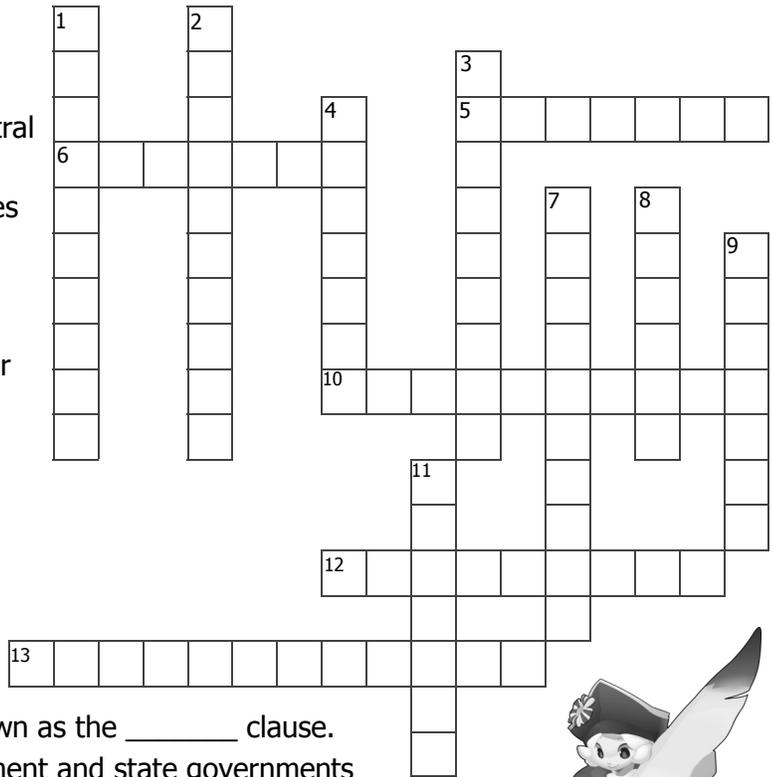
A. Crossword. Use what you learned in the reading to complete the crossword puzzle.

ACROSS

- 5. Type of government where the central government has all the power
- 6. Type of government where states and a central government share power
- 10. Special name for powers that both the states and federal government share
- 12. Powers that are actually stated in the Constitution
- 13. The federal government gets all of its power from this

DOWN

- 1. Type of government where the central government gets its power from the states
- 2. When America was born, each state already had one of these
- 3. Clause that says federal laws are superior to state laws
- 4. The necessary and proper clause is also known as the _____ clause.
- 7. Division of power between a central government and state governments
- 8. A word that describes the relationship of the states in America
- 9. The country that ruled the American colonies before the Revolutionary War
- 11. Powers that are not actually stated in the Constitution



B. Strengths and Weaknesses. Read each description of federalism. Does it describe a *strength* or a *weakness* of federalism? Label each line with an *S* for strength or *W* for weakness.

- _____ 1. Sometimes there is disagreement about whether states or the federal government is responsible for solving a certain problem.
- _____ 2. When different levels of government provide the same service, the delivery of that service may not be as coordinated and efficient as possible.
- _____ 3. Local communities often have the power to decide for themselves the best way to solve their own local problems.
- _____ 4. Having government on the state and local levels makes it easier for citizens to engage directly with their government.
- _____ 5. States and the federal government sometimes blame each other when problems are not addressed well enough.
- _____ 6. Many states experimenting with different solutions to problems makes it more likely that a good solution will be found.
- _____ 7. Citizens can choose to live in a state whose laws and rules are similar to their own beliefs.
- _____ 8. If a state isn't doing enough to solve a problem, the federal government may not have the power to step in and help.

The "Federal" in Federalism

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C. Federal Powers. Match each headline to the expressed power found in the Constitution.

Daily Debate

A.

President Orders Executive Branch to Carry Out New Law!

Daily Debate

B.

Congress Says Print More \$2 Bills!

Daily Debate

C.

Supreme Court to Decide If New Ban is Constitutional

Daily Debate

D.

Congress Restricts Handguns in District of Columbia

Daily Debate

E.

President: "Troops Will Come Home"

Daily Debate

F.

Budget Falls Short; U.S. to Borrow \$10 Billion

Daily Debate

G.

Congress Extends Income Tax Cuts to Middle Class

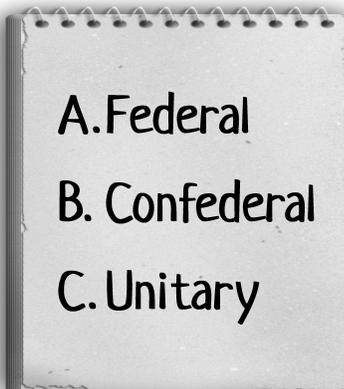
Daily Debate

H.

Agreement Reached on New Immigration Bill!

- ___ 1. "The President shall be Commander in Chief of the Army and Navy of the United States..."
- ___ 2. "The Congress shall have the Power... to establish an uniform rule of Naturalization..."
- ___ 3. "The judicial Power shall extend to all Cases ... arising under this Constitution, the Laws of the United States, and Treaties made ... under their Authority..."
- ___ 4. "The Congress shall have the power to...coin Money..."
- ___ 5. "...he shall take Care that the Laws be faithfully executed..."
- ___ 6. "The Congress shall have the power to lay and collect taxes on incomes..."
- ___ 7. "The Congress shall have the Power...to exercise exclusive Legislation in all Cases whatsoever, over such District... as may... become the Seat of the Government of the United States..."
- ___ 8. "The Congress shall have the Power... To borrow Money on the credit of the United States..."

D. Different Governments. Imagine you are in charge of creating a government for a brand new country! Which system would you choose if...



- ___ 1. You want the central government to have the most power?
- ___ 2. You want laws to be the same throughout the country?
- ___ 3. You want the central government to have the least power?
- ___ 4. You want individual states to keep as much independence as possible?
- ___ 5. You want both national laws and state laws to exist?
- ___ 6. You don't care whether individual states have any power?
- ___ 7. You want a balance between power in the states and the central government?
- ___ 8. You want there to be few, if any, national laws?

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Name: **** TEACHER GUIDE ****

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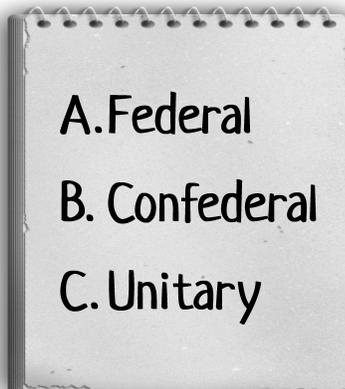
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- A 5. "...he shall take Care that the Laws be faithfully executed..."
- G 6. "The Congress shall have the power to lay and collect taxes on incomes..." [Amendment 16]
- D 7. "The Congress shall have the Power...to exercise exclusive Legislation in all Cases whatsoever, over such District... as may... become the Seat of the Government of the United States..."
- F 8. "The Congress shall have the Power... To borrow Money on the credit of the United States..."

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