

Module 2: The Constitution

Topic 5 Content: Federalism

Introduction



Demi Tracy: When drafting the Constitution, the framers wanted to establish a new plan for government. They wanted to organize the United States government as a federal system. This would mean that instead of centralizing power at the regional level, power would be shared between the national government and the state governments. Here is *The Constitutional Connection*.

Module 2: The Constitution Topic 5 Content: Federalism

The Constitutional Connection



Jamie Madson: The Constitution states that the national government holds the ultimate power.

“...This Constitution, and the Laws of the United States....shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding...”

The ultimate power may be broken down into three types of power: expressed powers, implied powers, and inherent powers.

Module 2: The Constitution Topic 5 Content: Federalism

Expressed Powers

Expressed Powers

- Powers of the national government that are explicitly stated in the Constitution
- 27 expressed powers of Congress in Article I Section 8
- Clearly written as belonging to the national government
- "...To make all Laws which shall be necessary and proper for carrying into Execution... all...Powers vested by this Constitution..."

- Levy and collect taxes
- Regulate commerce and currency
- Borrow money
- Declare war
- Raise and support armies
- Maintain the navy

Expressed Powers Implied Powers Inherent Powers State Powers

Jamie Madson: Expressed powers are the powers of the national government that are explicitly stated in the Constitution. There are 27 expressed powers of Congress in Article I Section 8 of the Constitution. These powers vary, but the most important include the powers to:

- levy and collect taxes;
- regulate commerce and currency;
- borrow money;
- declare war;
- raise and support armies; and
- maintain the navy.

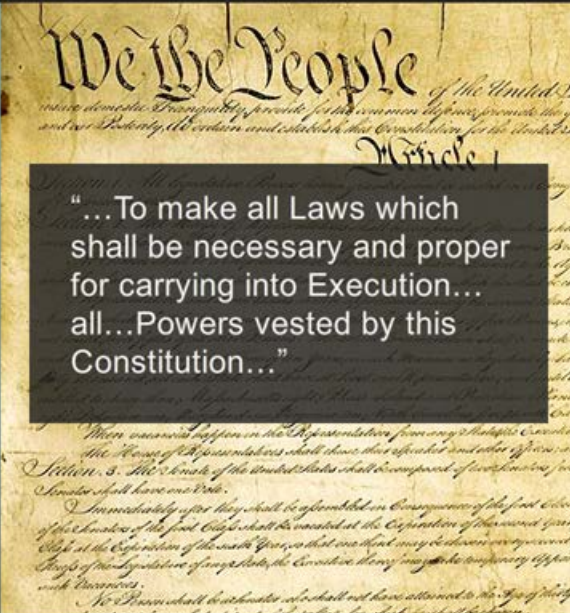
These powers are clearly written in the Constitution as belonging to the national government. Another important power directly stated is the power "...To make all Laws which shall be necessary and proper for carrying into Execution...all...Powers vested by this Constitution..."

Module 2: The Constitution Topic 5 Content: Federalism

Implied Powers

Implied Powers

- Powers that are not explicitly stated in the Constitution
- Power to enforce laws not directly stated, in order to carry out expressed powers
- “Elastic Clause” or “Necessary and Proper Clause”
- Continually debated
- Power to set minimum wage



Expressed PowersImplied PowersInherent PowersState Powers

Jamie Madson: Implied powers are powers that belong to the national government, but are not explicitly stated in the Constitution. Under Article I Section 8 of the Constitution, Congress has the expressed power “...To make all Laws which shall be necessary and proper for carrying into Execution...all...Powers vested by this Constitution...”

What this means is that Congress must have the power to enforce laws not directly stated, in order to carry out those powers expressed in the Constitution. This is often referred to as the “Elastic Clause” or the “Necessary and Proper Clause.” Obviously the idea of what is “necessary and proper” is open to interpretation; this has led to continual debates about the implied powers of the government throughout history.

An example of an implied power of the national government is the power to set a minimum wage. The idea of a minimum wage is not directly stated anywhere within the Constitution; however, the power to regulate commerce and currency is clearly stated.

Module 2: The Constitution Topic 5 Content: Federalism

Inherent Powers

Inherent Powers

- Powers that belong to a national government, because it is a sovereign state
- Sovereign states inherently have some powers

- Establish diplomatic relationships with foreign governments
- Maintain national borders
- Defend the government from revolution

Expressed Powers Implied Powers Inherent Powers State Powers

Jamie Madson: Inherent powers are those powers that belong to a national government, simply because it is a national government. Basically, because the national government is a sovereign state, there are inherent powers that belong to it. For example, a government needs to have the authority to:

- establish diplomatic relationships with foreign governments;
- maintain national borders; and
- defend the government from revolution.

Module 2: The Constitution Topic 5 Content: Federalism

The Powers of State Governments

State Powers

Next

- Fear that federal government would impose on states' rights
- Fear of similar restrictions experienced under English rule
- Personal liberties guaranteed under the Bill of Rights
- Power not explicitly given to the national government is reserved for the states or people
- Regulate procedures to get a driver's license, state business practices, and marriage laws

“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”

Expressed Powers Implied Powers Inherent Powers State Powers

Jamie Madson: During the process of ratifying the Constitution, many opponents feared that the federal government established by the Constitution would impose upon states' rights. This was a legitimate fear, as the unitary system government they experienced under English rule had restricted many of the states' rights, leading to the American Revolution.

The Bill of Rights helped to calm these fears. In addition to the personal liberties that the document guaranteed, the 10th Amendment of the Constitution explains that any power that is not explicitly given to the national government is reserved for the states or the people. It states:

“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”

This means that a state government may regulate many aspects of the law, such as:

- procedures to obtain a driver's license;
- business practices within the state; and
- marriage laws.

Module 2: The Constitution Topic 5 Content: Federalism

Ending of Episode



Demi Tracy: We appreciate you sharing that episode of *The Constitutional Connection* with us, Jamie. We also appreciate our viewers joining us for today's episode. Until next time, this is Demi Tracy with Glover Mint, signing off.