

## U.S. Federal System: Overview

**Origins:** In the 17th century, the English tradition of local autonomy in towns and shires influenced the form of government that developed in the American colonies. The English people were accustomed to local self-government. In addition, the roots of Federalism were planted in the working relationship that developed during the Colonial Period between the colonies and the English Crown and Parliament. During the Colonial Period the ground was laid for interstate relations. The framers of the Constitution, therefore, had to take into account two opposing forces: state patriotism that developed out of the Colonial Experience, and Americanism that tied the states together in their fight for freedom from England.



**Principles:** Federalism involves two levels of government, each assumed to derive its powers directly from the people, at least in democratic societies. Therefore, each level of government is considered supreme in the areas of power assigned to it.

Each level of government is protected by fundamental laws of the Constitution that prevent either level from usurping or destroying the other.

## U.S. Federal System: Supremacy Clause and Structure

### Supremacy Clause

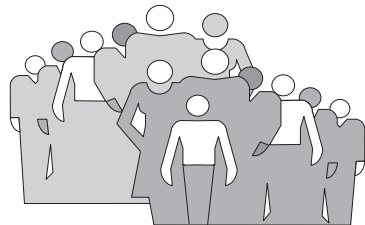
Since the division of power in the United States is a federal one, in which the two levels of government govern the same territory and people, conflicts will arise between national and state laws. Thus the Constitution's framers added Article VI, Section 2, the Supremacy Clause, to resolve these conflicts. Basically, it says that the Constitution is the Supreme Law of the Land, that it stands above all other laws.

Following is the order of supremacy of laws governing the U.S.:

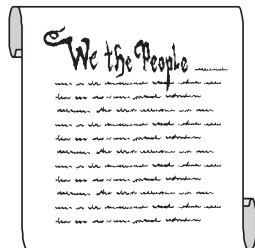
1. Constitution
2. Acts of Congress and Treaties
3. State Constitutions
4. State Statutes
5. City and County Charters

### Structure of the U.S. Federal System

An organizational chart of the U.S. federal system might look like this:



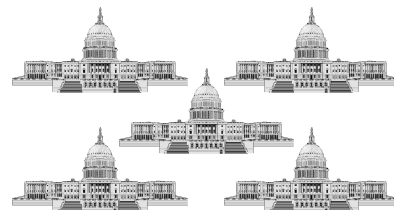
**Citizens of the United States**



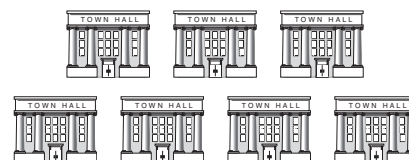
**U.S. Constitution**



**National Government**



**50 State Governments**

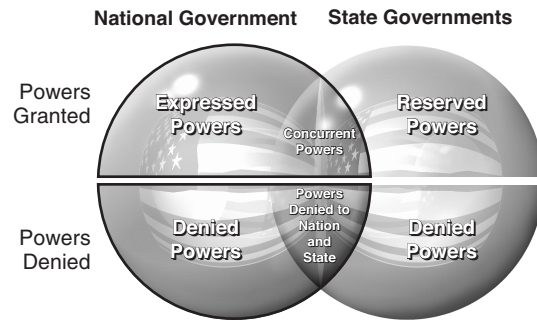


**Local Governments**

## U.S. Federal System: Role of National Government

### The Relationship of Powers Held by the National Government and by the State

The role of the national government is characterized by the types of powers granted to it and denied to it under the Constitution and the U.S. federal system.



#### TYPE OF POWER & CHARACTERISTICS

### Expressed/Enumerated Powers

Those powers given to the national government that are specifically spelled out in the Constitution.

#### DOCUMENTATION & EXAMPLES

Article I, Section 8, U.S. Constitution, is a list of all the specific powers granted to Congress, such as "Congress shall have power to declare war."

### Implied Powers

Those powers that are not expressly stated in the Constitution, but are reasonably implied by the powers that are expressly stated.

Article I, Section 8, Clause 18, U.S. Constitution: The "necessary and proper clause" or "elastic clause" allows Congress to make all laws needed to carry out the powers stated in Clauses 1-17. For instance, Congress has passed many laws relating to the expressed power of regulating foreign and interstate commerce, such as making it a federal crime to move stolen goods across state lines.

### Inherent Powers

Those powers that belong to the U.S. government because it is a national government of a sovereign state.

Sovereign states have the right to regulate immigration, as well as the power to acquire territory by legal means.

### Powers Denied to the National Government

Denied powers fall into three categories:

#### Powers expressly denied in the Constitution

Some powers are specifically denied to the national government in explicit language.

Article I, Section 9, Clause 5, U.S. Constitution: Congress cannot impose a tax on exported goods from any state.

#### Powers denied because the Constitution is silent on the matter

Some powers are denied to the national government because the framers did not expressly give it such power; therefore, the national government cannot assume that it has the power.

The Constitution says nothing about setting up a public school system, therefore the national government cannot take on that responsibility. Public schools are run by their local communities.

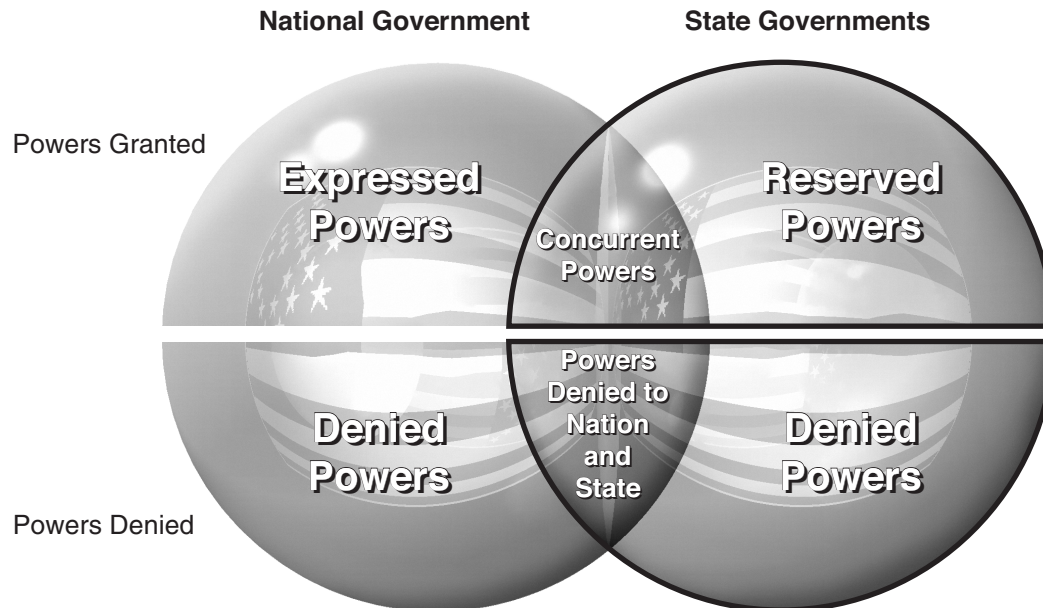
#### Powers denied because of the structure of a federal system

Some powers are denied the national government because, within a federal system, the central and state governments are granted certain exclusive powers. Therefore, the national government can't implement any law that undermines the powers of the state governments.

The national government cannot impose a tax on the functions of the state government because this could result in states being taxed out of existence.

## U.S. Federal System: Role of State Governments

The Relationship of Powers Held by  
the National Government and by the States



### TYPE OF POWER & CHARACTERISTICS

#### Reserved Powers

States are allowed to exercise all powers that have not been given to the national government or not specifically prohibited to the states. Consequently, states have a wide scope in regulating their residents' lives, as long as they do not violate their constitutional rights.

### DOCUMENTATION & EXAMPLES

Amendment 10 to the Constitution states that "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."

For instance, some states have implemented capital punishment for certain crimes, while others have not. Also, states have different requirements for obtaining a driver's license.

#### Powers Denied to States

##### Powers expressly denied to the states in the Constitution

These denied powers are outlined in Article I, Section 10, Clauses 1-3.

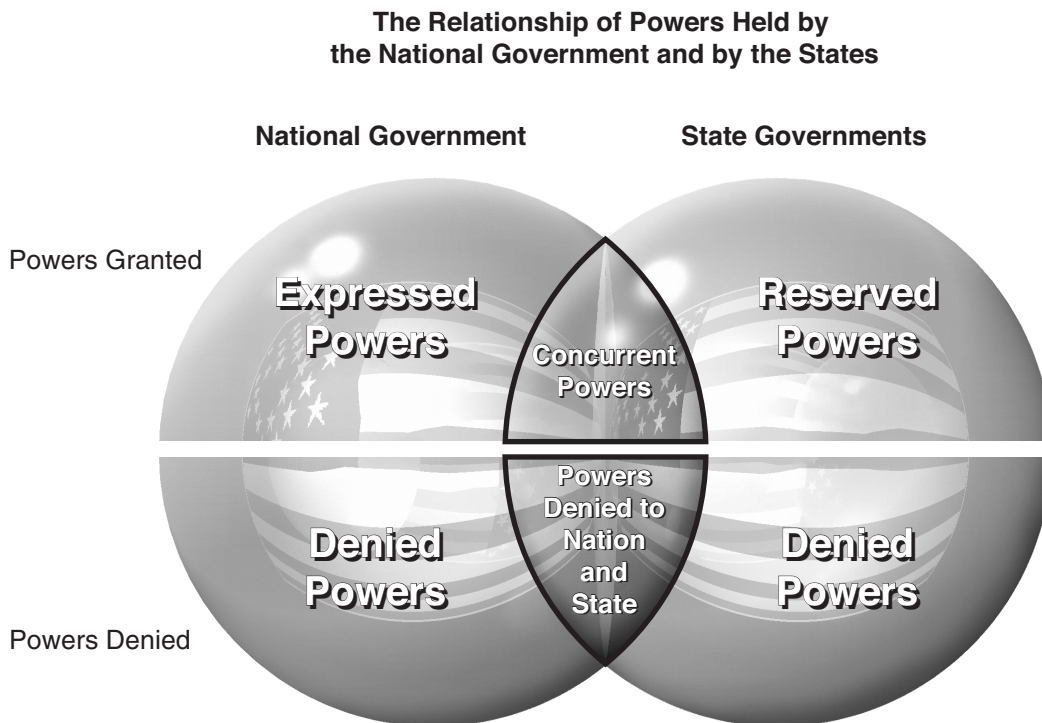
States may not enter into alliances or treaties with other nations. This function and power has been exclusively granted to the national government.

##### Powers denied because of the structure of a federal system

Within a federal system, state and national governments are granted certain exclusive powers. Therefore, the state government cannot implement any laws that would undermine the national government.

State governments cannot tax the functions of the national government or declare war. Also, each state has its own constitution that also denies it certain powers.

## U.S. Federal System: Common Roles of National and State Governments



### TYPE OF POWER & CHARACTERISTICS

#### Concurrent Powers

Powers that both national and state governments possess and exercise are known as concurrent powers. They exercise them separately and simultaneously.

### DOCUMENTATION & EXAMPLES

States may exercise any power that the Constitution does not specifically reserve for the national government; however, the exercise of such powers cannot conflict with national law. Examples of powers that both national and state governments may exercise is the power to tax. Also, they both have the power to maintain courts.

#### Powers Denied to Both National and State Governments

Both national and state governments are denied certain powers, most of which pertain to the limitation of individual freedom.

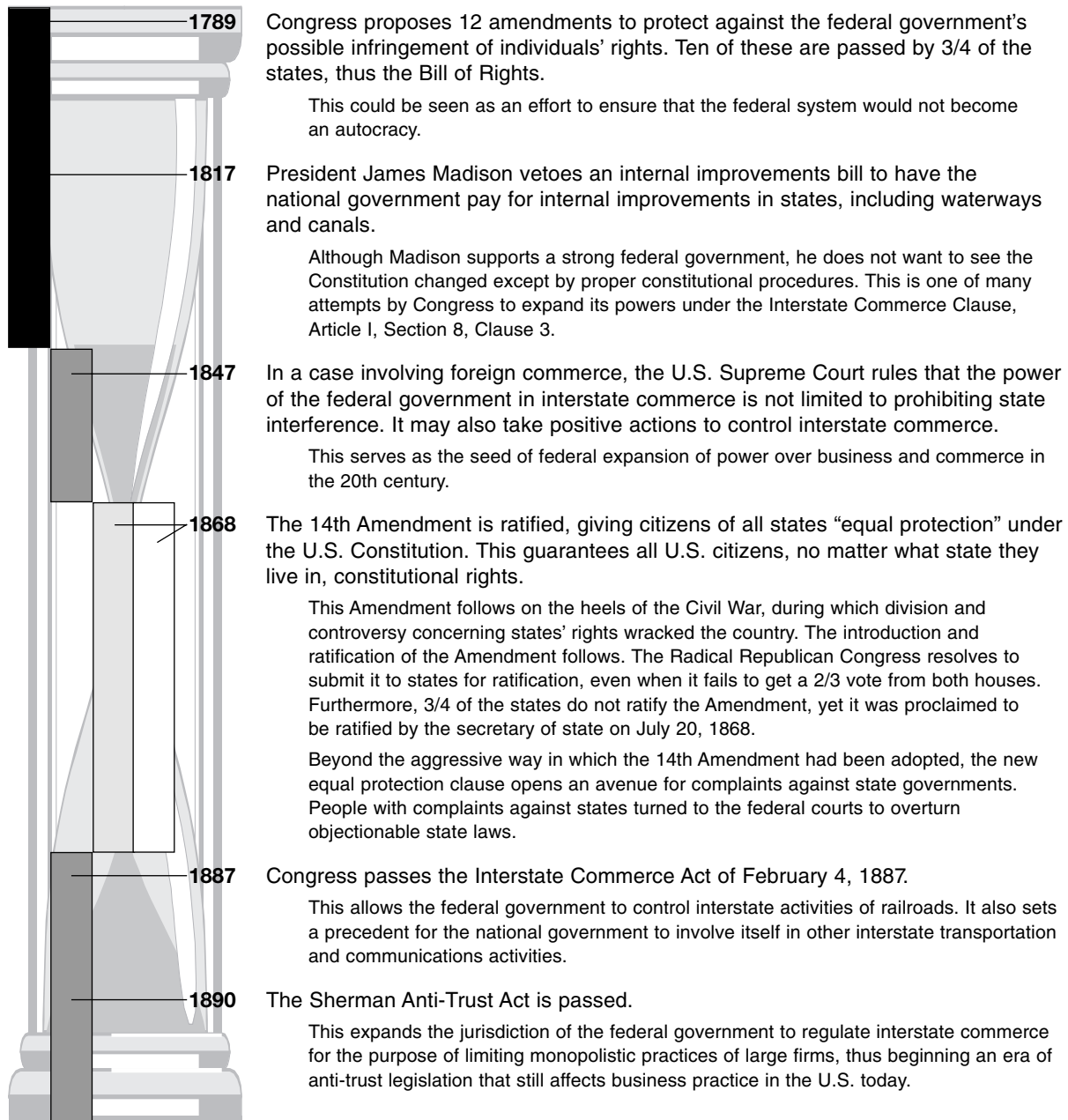
The Bill of Rights lists several ways in which the laws and actions of the country may not infringe on a person's liberty. For instance, the 4th Amendment guarantees the right of people to "be secure in their persons, houses, papers, and effects," and protects people against unwarranted searches.

## Development of the Power of the Federal Government: 1789 to 1890

### Key to Change in the Power of the Federal Government



### Timeline of Change in the Power of the Federal Government

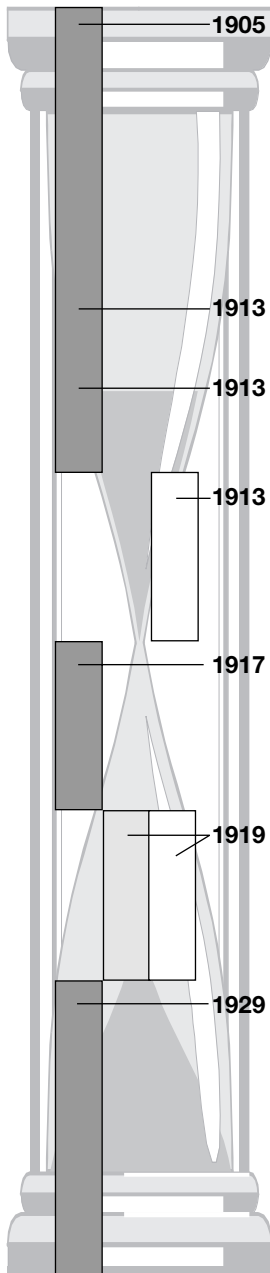


## Development of the Power of the Federal Government: 1905 to 1929

### Key to Change in the Power of the Federal Government



### Timeline of Change in the Power of the Federal Government



The *Swift and Company v. United States Supreme Court* case determines that interstate commerce includes any kind of commercial activity that, in "the established course of the business," would eventually involve transporting something across state lines.

Because of its inclusive definition of interstate commerce, this case expands the power of the national government over business activity. Such government efforts to control business come in response to the growing power of business conglomerates. For example, Carnegie Steel Company by 1899 controls almost 25% of steel and iron production in the U.S.

The 16th Amendment passes, giving the federal government power "to lay and collect taxes on incomes."

The Federal Reserve Act passes, providing "for the establishment of Federal Reserve Banks, to furnish an elastic currency . . . establish a more effective supervision of banking" in the U.S.

The 17th Amendment passes, providing for direct election of U.S. Senators.

These three changes in 1913 have long-term ramifications for states, individuals, and businesses. The federal government's control extends over not just personal incomes, but private banking and the nation's money supply. Also, the 17th Amendment removes from state governments their indirect participation in the federal legislative process.

The United States enters World War I, resulting in a shift in production toward war items.

The federal government assumes greater control over the economy as is often the case in times of international crisis. It is directly involved in manufacturing and production. This trend resurges during World War II.

The 18th Amendment is passed; it prohibits the sale, transport, and production of alcohol in any state.

The role of the national government as criminal prosecutor expands because of the extent of violations against the 18th Amendment. Federal agents become a presence in every state. Further, the amendment establishes a precedence of federal law over state law.

President Herbert Hoover signs a number of measures intended to help businesses recover from the stock market crash in October and from the Great Depression that follows.

These "reconstruction efforts" are deemed necessary given the crisis the country is facing. The establishment of government agencies such as the Reconstruction Finance Corporation, the Home Loan Bank, and the Farm Loan Bank further expands the federal government's role in business.

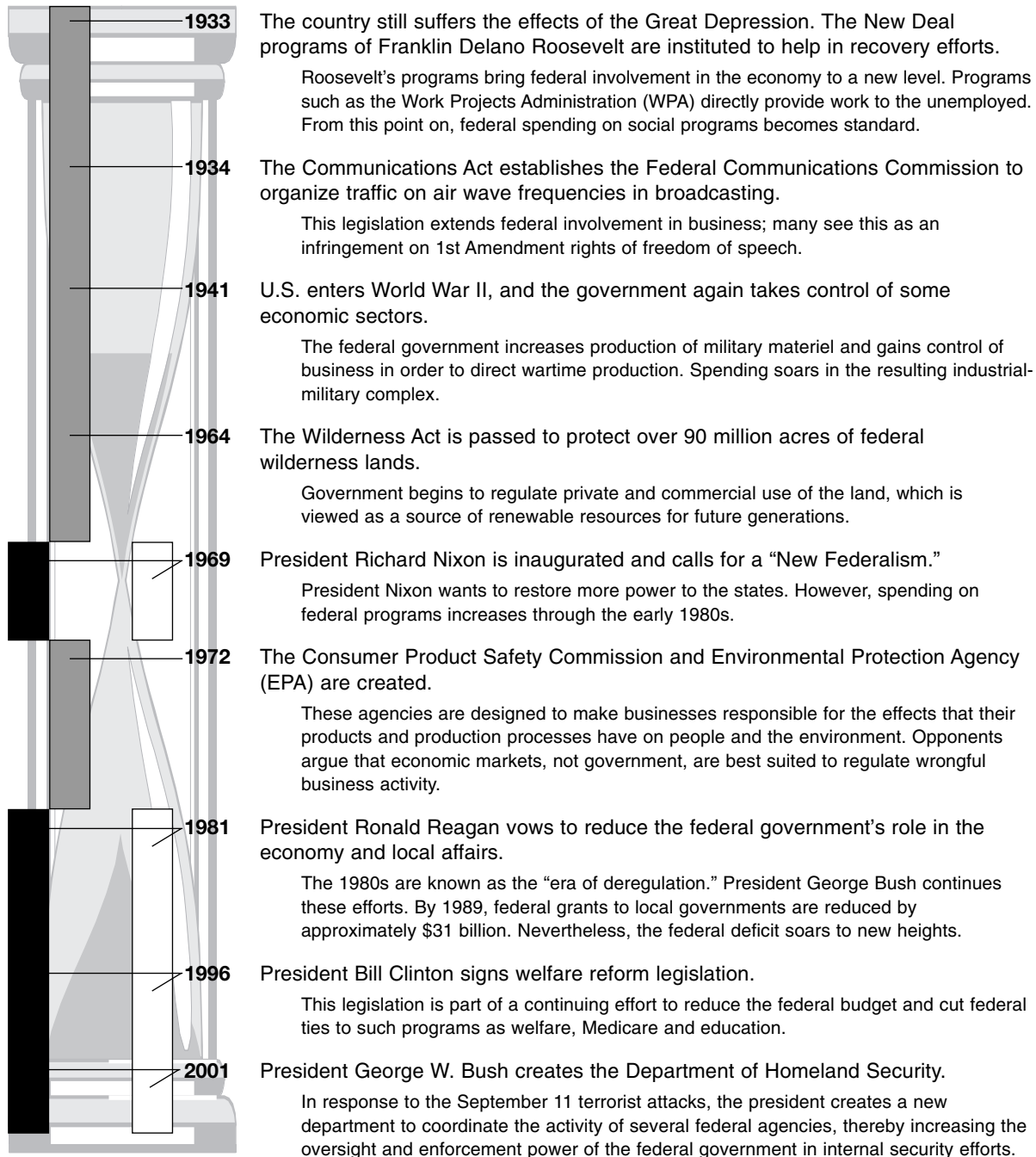


## Development of the Power of the Federal Government: 1933 to 2001

### Key to Change in the Power of the Federal Government



### Timeline of Change in the Power of the Federal Government





## U.S. Federal System: Relations Among States



*Crossing state lines on an interstate highway is a concrete reminder of our federal system of government.*

### **“Full Faith and Credit”**

Each state must recognize the legal acts and processes of other states. This section requires that each state honor the public records, judicial acts and state laws, such as deeds, marriages, divorces, court orders, etc.

### **Extradition**

Fugitives from justice in one state must be returned to the state where the crime was committed. This is designed to prevent a criminal from escaping justice by fleeing to another state.

### **Interstate Citizenship**

Citizens of the U.S. may travel freely between states without customs posts or any documentation such as passports. States must treat citizens of other states fairly. The citizens of each state “shall be entitled to all privileges and immunities of citizens” of every other state. However, a citizen of one state is also responsible for obeying the laws of another state while he/she is visiting. In addition, a state may require a person to live in a state for a certain length of time before he/she can hold public office, vote, acquire a driver’s license, etc.

### **Maintaining Cooperation**

Reciprocity is the rule between states. States realize that mutual help benefits the whole Union.

### **Interstate Compacts**

Conflicts between states should be settled by written agreements called interstate compacts. These must be approved by Congress and their terms are enforced by the U.S. Supreme Court.

### **Lawsuits between States**

On occasion, disputes between states are irreconcilable. As a result, these cases end up in the U.S. Supreme Court. Examples include boundary disputes, sewage problems, and water rights.

## U.S. Federal System: Admission of New States

Article IV, Section 1 of the Constitution empowers Congress to admit new states:  
“New States may be admitted by the Congress into this Union . . . ”

### Admission Requirements

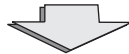
1. No new state can be formed by taking territory from one or more states without their consent and the consent of Congress.
2. The admittance of states to the Union is subject to presidential veto.

### Procedure

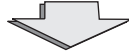
1. Congress must pass an “Enabling Act,” which allows inhabitants of the territory to prepare a constitution.



2. This constitution must be approved by popular vote in the territory.



3. Congress must approve the constitution.



4. The state is admitted to the Union with the passage of an “Act of Admission,” although sometimes Congress proposes changes to the state’s constitution before it grants full statehood.

### Examples

1911, Arizona modified its constitution regarding the recall of judges before Congress would grant it statehood.

1959, Alaska was prohibited from making any claims to the lands of the Aleutians before Congress granted it statehood.

