Assignment

This lesson is based on information in the following text selections and video. Carefully read and review all of the materials before taking the practice test. The key terms, focus points, and practice test are intended to help ensure mastery of the essential political issues surrounding federalism, the relation between the national government and states and localities.

Text: Chapter 3, “Federalism: Forging a Nation,” pp. 73–108

Video: “A Question of Sovereignty”

Overview

One of the American Framers’ unique contributions was their invention of federalism. A federal system is one that attempts to divide sovereignty, or governmental power, between two levels of government; one at the national level and the other closer to the people. Federalism replaced the system that had been established under the Articles of Confederation. The confederal government was a system in which the national authority could not act directly upon the individual but could only make requests of the states to do so, many of which went unheeded. Unitary systems of government, like that in Great Britain, in which all sovereignty is vested in the national government and all local governing units are subject to national authority, were also familiar to the colonists, but they associated this system with arbitrary exercise of power.

Federalism grew primarily from practical necessity. Few states were willing to cede all of their power to the national government. During the debate with Anti-federalists, the Framers had articulated the advantages of a federal system. This system was consistent with the theory of checks and balances embodied by other parts of the new government. Federalists, most notably James Madison, also argued that a national government presiding over a land area as large as that of the United States would serve to moderate the vices of factionalism that he associated with smaller, more homogenous, land areas. Federalists further believed that a federal government would have the strength to deal with such national concerns as defense, taxation, and commerce, which the Articles had been too weak to manage.

In strengthening the new national government, the Founders vested Congress and other branches of government with specifically enumerated, or granted powers. Other powers, known as implied powers, were understood to grow from these enumerated powers. Such powers were justified in part by the necessary and proper, or elastic, clause. The Tenth Amendment, in turn, recognized that powers not vested in the national government remained reserved to the states.

The federal division of power between state and national governments has led to persistent controversy in U.S. history. Three main periods of conflict can
be identified. From 1789 to 1865, the Supreme Court reflected the nationalism of many of the early Federalists and recognized the right of the national government to exercise implied powers. *McCulloch v. Maryland* (1819) thus gave a broad reading to the necessary and proper clause in upholding the constitutionality of the national bank and in denying the right of a state to try to tax it out of existence. *Gibbons v. Ogden* (1824) further recognized the priority of national commercial regulation in cases where it conflicted with state authority. During the early national period, there was a states’ rights movement reflected in the nullification controversy and eventually in the Civil War, in which advocates tried to resist national authority. The outcome of the Civil War finally established that national authority would be binding on the states.

During the period from 1865 to 1937 the nation was dominated by the idea of dual federalism, positing distinct and separate responsibilities for state and national authority. The conservative Supreme Court gave a narrow reading of the *commerce clause*, which prevented the national government from regulating industry. Other cases, however, seriously restricted state control as well.

Since 1937, when the Supreme Court reversed course in the face of Franklin D. Roosevelt’s attempt to increase the number of Supreme Court justices with his “court-packing” plan, national powers have been much more generously interpreted. The Court reversed earlier decisions and recognized that economic problems were now national in scope and could be regulated through congressional control over interstate commerce.

Contemporary federalism is characterized at once by an expansion of national authority and by a contraction, or *devolution*, of this authority. The term *cooperative federalism* is thought to be better descriptive of current relationships than the earlier description of dual federalism. States continue to exercise important responsibilities in such areas as education, law enforcement, and transportation, and state governments continue to employ far more individuals than the national government.

The term *fiscal federalism* is used to refer to the expenditure of federal funds by state and local governments through *grants-in-aid* programs. These monies may be distributed either in the form of *categorical grants* or *block grants*. The former generally entail greater regulations, as the national government seeks some control over the expenditure of funds that it has supplied to the states. The latter permit greater state control and experimentation.

The movement for devolution has been hastened in part by national budget deficits that have slowed the growth of national aid to the states and by lessening public confidence in the ability of the national government to administer such programs. States have also responded negatively to *unfunded federal mandates* that have required them to spend money that the national government has not itself supplied. The U.S. Supreme Court has also begun to give greater scrutiny to congressional legislation that is based on the *commerce clause*. *United States v. Lopez* (1995) and *Printz v. United States* (1997) are examples of Supreme Court decisions that have struck down federal legislation as unconstitutional. The Court still allows for a wide exercise of national powers. Ultimately, however, the system seems to be responsive to public sentiment as to the proper mix of state and national authority.

**Learning Objectives**

After completing this assignment you should be able to:

1. Describe the characteristics and central strengths and weaknesses of confederal, federal, and unitary governments.
2. Explain the factors that motivated the American founders to establish a federal form of government and identify the key arguments that they made.
3. Identify the meaning of enumerated, implied, and reserved powers and their relationship with one another.
4. Identify three periods of American history in terms of the relationships between state and federal powers that were recognized during each period.
5. Describe how contemporary federalism has been characterized by both an expansion of, and a contraction, or devolution, of national powers.
6. Identify the manner in which the national government provides money to state and local government, and exercises at least limited control over how they spend these monies.
Key Terms and Concepts

Pay particular attention to the following key terms and concepts. Many appear in both the readings and video, and you should understand and be prepared to discuss them when the assignment is complete.

block grants
John C. Calhoun
categorical grants
commerce clause
concurrent powers
confederal government (confederacy)
cooperative federalism
devolution
*Dred Scott* decision (1857)
dual federalism
elastic (“necessary and proper”) clause
enumerated powers
federalism
fiscal federalism
*Gibbons v. Ogden* (1824)
grants-in-aid
*Hammer v. Dagenhart* (1918)
implied powers
laissez-faire capitalism
*Lochner v. New York* (1905)
*McCulloch v. Maryland* (1819)
National Industry Recovery Act (NIRA)
nullification doctrine
*Printz v. United States* (1997)
reserved powers
revenue sharing
Owen Roberts
sovereignty
supremacy clause
Tenth Amendment
unfunded mandates
unitary government
Welfare Reform Act (1996)

Text Focus Points

These text focus points are intended to guide your reading of the selections for this assignment. Review the points before reading the materials; it will be useful to take notes related to these points.

— The American Founders developed a federal government as an alternative to the Articles of Confederation, which had proven to be too weak to deal with national problems.

— The Founders justified this new system of government both as a practical solution to the exigencies that they faced and as a way of protecting liberty, consistent with the separation of powers and checks and balances found elsewhere within the Constitution.

— Within our system of government, the national government exercises both enumerated and implied powers, with other powers being reserved to the states. Many powers are exercised concurrently by both state and national governments.

— Americans have applied and interpreted federal principles in different ways at different periods in our history. During the period from 1789 to 1865, nationalists clashed with those who advocated nullification and secession, with the outcome of the Civil War settling this issue in favor of the nationalists. From 1865 through 1937, court decisions restricted both state and national regulation of commerce and industry by giving a narrow reading to the commerce clause. Since 1937, the Court has interpreted congressional powers far more generously.

— Today there has been a trend toward the expansion of certain areas of national authority and the devolution of others. The national government provides aid to the states through grants-in-aid programs. Categorical grants are generally accompanied by more strings than are block grants.

— The relation between the nation and the states often rests on changes in public opinion.

Video Focus Points

These video focus points are intended to guide your viewing of the video selection for this assignment. Review the points before watching the video; it will be useful to take notes related to these points.

— Federalism is an important American innovation that rests on the idea that sovereignty can be divided between state and national authorities.

— Federalism was a response to perceived problems under the Articles of Confederation; this response
was viewed as consistent with the theory of separation of powers and checks and balances.

— A federal system is extremely complex and is shaped by changing judicial interpretations of the Constitution. The Court took an important turn in 1937 in recognizing increased national powers under the commerce clause. In recent years, the Rehnquist Court has sought to re-impose some limits on congressional powers under the commerce clause, but congressional powers under this clause are still extensive.

— Federal aid has been one mechanism through which the national government has influenced state policies. Recent presidents have taken different approaches to state-national relations, and these approaches have been reflected in their programs and policies.

— Relations between the states and the national government are often cooperative, sometimes competitive, and at times, even coercive. One point of tension has been that of unfunded federal mandates.

Related Activities

These activities are intended for further examination of the issues raised by the readings and video in this assignment. Your instructor may assign them, or you may wish to pursue them independently.

— There are three basic approaches that governments may take in ordering the relations between the national government and various subunits. Identify each of these, providing at least one example of each approach as well as at least one advantage and one disadvantage of each system.

— Consider the department and the school or college in which you major or in which you are taking this course. See if you can describe the relationship between this department or college and the units above it. From what you know of governance at your college, does this relationship most closely approximate that of a confederal government, a federal government, or a unitary government? Explain.

— Get a copy of a current newspaper and see how many stories you can find that deal with relations either between the national government and the states or among different states. Describe these in an essay. Do most stories appear to focus on cooperation, conflict, or competition? In the stories you have found dealing with the national government and the states, which level of government, if any, appears to have the upper hand? Explain.

Practice Test

This practice test is designed to ensure you have mastered the material in the assignment. Work through the questions and then check your answers against the key. If any of your answers are incorrect, review the relevant sections of the readings and/or video.

Multiple Choice

1. Federalism is an attempt to
   a. entrust all sovereignty to the national government.
   b. entrust all sovereignty to the state governments.
   c. divide sovereignty between both levels of government.
   d. eliminate separation of powers.

2. The power over foreign affairs is an example of a power
   a. entrusted almost exclusively to the national government.
   b. entrusted almost exclusively to the state governments.
   c. denied to both state and national governments.
   d. shared by both state and national governments.

3. Madison thought a large republic would
   a. be more homogeneous than a single state.
   b. be more diverse than a single state.
   c. threaten liberty.
   d. threaten stability.

4. France is an example of a
   a. confederal government.
   b. unitary government.
   c. federal government.
   d. military dictatorship.
   a. helped establish the idea of implied powers.
   b. relied in part on the necessary and proper clause.
   c. said that Maryland had no right to tax the national bank.
   d. all of the above are true.

6. South Carolina Senator John C. Calhoun was an advocate of
   a. abolitionism.
   b. nullification.
   c. perpetual union.
   d. obedience to the commands of President Jackson.

7. Richard Nixon was an advocate of
   a. abolishing federalism.
   b. the Great Society.
   c. revenue sharing.
   d. demolishing all federal programs.

8. Dual federalism was based on the idea of
   a. returning to colonial status.
   b. complete national supremacy.
   c. complete state sovereignty.
   d. precise lines between state and national powers.

9. The Supreme Court decision in *Hammer v. Dagenhart* (1918) relating to child labor is an example of a case
   a. restricting the powers of the national government.
   b. widening the powers of the national government.
   c. upholding progressive legislation.
   d. recognizing implied powers.

10. In 1937, the U.S. Supreme Court
    a. overturned most New Deal programs.
    b. affirmed states’ rights.
    c. began giving a wider reading to national powers under the commerce clause.
    d. continued its laissez-faire readings of the U.S. Constitution.

11. The process of devolution refers to
    a. increasing powers at the national level.
    b. passing authority from the national level to the state and local level.
    c. diminishing the powers of the presidency.
    d. increasing the powers of the presidency.

12. In recent years, the Supreme Court has
    a. somewhat restricted congressional authority.
    b. ruled that all powers reside with the states.
    c. ruled that all powers reside with the national government.
    d. refused to make any rulings involving federalism.

Essay Questions

13. What were the central arguments that the American Founders made on behalf of a federal government? What were the central arguments that were made in opposition to this government?

14. Discuss the difference between categorical grants and aid programs and block grants. What are the primary strengths and weaknesses of each program? Explain.

15. Some powers are exercised almost exclusively by the national government, some are almost exclusively exercised by state governments, and many are shared by both. Cite some key examples of each kind of power. Which set of powers predominates? Explain.