Creating the Republic

April 1775  American Revolution begins at Lexington and Concord

June 1775  George Washington assumes command of Continental forces

July 1776  Declaration of Independence approved

November 1777  Articles of Confederation adopted by Continental Congress

March 1781  Articles of Confederation ratified by all the states

October 1781  British defeated at Yorktown

April 1783  Congress ratifies peace treaty with Britain

August 1786 to February 1787  Shays' Rebellion in western Massachusetts

May 1787  Constitutional Convention opens in Philadelphia

September 1787  Constitution of the United States adopted by Constitutional Convention

June 1788  Constitution ratified by nine states

January and February 1789  First national elections

March 1789  United States Congress meets for the first time in New York

April 1789  George Washington inaugurated as first president

September 1789  John Jay becomes first chief justice of the United States

September 1789  Congress proposes Bill of Rights

December 1791  Bill of Rights (first ten amendments) ratified as part of the U.S. Constitution

Note: It took about 15 years to win independence, form an interim government that tried to govern, fashion a “more perfect union,” and actually get a national government, with functioning legislative, executive, and judicial branches.
TO ALL TO WHOM these Presents shall come, we the undersigned Delegates of the States affixed to our Names send greeting. Whereas the Delegates of the United States of America in Congress assembled did on the fifteenth day of November in the Year of our Lord One Thousand Seven Hundred and Seventy seven, and in the Second Year of the Independence of America agree to certain articles of Confederation and perpetual Union between the States of New Hampshire, Massachusetts bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia in the Words following, viz. "Articles of Confederation and perpetual Union between the states of New Hampshire, Massachusets bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia."

**Article I.**
The Style of this confederacy shall be "The United States of America."

**Article II.**
Each state retains its sovereignty, freedom and independence, and every Power, Jurisdiction and right, which is not by this confederation expressly delegated to the United States, in Congress assembled.

**Article III.**
The said states hereby severally enter into a firm league of friendship with each other, for their common defence, the security of their Liberties, and their mutual and general welfare, binding themselves to assist each other, against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever.

**Article IV.**
The better to secure and perpetuate mutual friendship and intercourse among the people of the different states in this union, the free inhabitants of each of these states, paupers, vagabonds and fugitives from Justice excepted, shall be entitled to all privileges and immunities of free citizens in the several states; and the people of each state shall have free ingress and regress to and from any other state, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions and restrictions as the inhabitants thereof respectively, provided that such restriction shall not extend so far as to prevent the removal of property imported into any state, to any other state of which the Owner is an inhabitant; provided also that no imposition, duties or restriction shall be laid by any state, on the property of the united states, or either of them.

If any Person guilty of, or charged with treason, felony, or other high misdemeanor in any state, shall flee from Justice, and be found in any of the united states, he shall upon demand of the Governor or executive power, of the state from which he fled, be delivered up and removed to the state having jurisdiction of his offence.

Full faith and credit shall be given in each of these states to the records, acts and judicial proceedings of the courts and magistrates of every other state.
Article V.

For the more convenient management of the general interests of the united states, delegates shall be annually appointed in such manner as the legislature of each state shall direct, to meet in Congress on the first Monday in November, in every year, with a power reserved to each state, to recall its delegates, or any of them, at any time within the year, and to send others in their stead, for the remainder of the Year.

No state shall be represented in Congress by less than two, nor by more than seven Members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the united states, for which he, or another for his benefit receives any salary, fees or emolument of any kind.

Each state shall maintain its own delegates in a meeting of the states, and while they act as members of the committee of the states.

In determining questions in the united states, in Congress assembled, each state shall have one vote.

Freedom of speech and debate in Congress shall not be impeached or questioned in any Court, or place out of Congress, and the members of congress shall be protected in their persons from arrests and imprisonments, during the time of their going to and from, and attendance on congress, except for treason, felony, or breach of the peace.

Article VI.

No state without the Consent of the united states in congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, or alliance or treaty with any King prince or state; nor shall any person holding any office of profit or trust under the united states, or any of them, accept of any present, emolument, office or title of any kind whatever from any king, prince or foreign state; nor shall the united states in congress assembled, or any of them, grant any title of nobility.

No two or more states shall enter into any treaty, confederation or alliance whatever between them, without the consent of the united states in congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

No state shall lay any imposts or duties, which may interfere with any stipulations in treaties, entered into by the united states in congress assembled, with any king, prince or state, in pursuance of any treaties already proposed by congress, to the courts of France and Spain.

No vessels of war shall be kept up in time of peace by any state, except such number only, as shall be deemed necessary by the united states in congress assembled, for the defence of such state, or its trade; nor shall any body of forces be kept up by any state, in time of peace, except such number only, as in the judgment of the united states, in congress assembled, shall be deemed requisite to garrison the forts necessary for the defence of such state; but every state shall always keep up a well regulated and disciplined militia, sufficiently armed and accoutered, and shall provide and constantly have ready for use, in public stores, a due number of field pieces and tents, and a proper quantity of arms, ammunition and camp equipage.

No state shall engage in any war without the consent of the united states in congress assembled, unless such state be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such state, and the danger is so imminent as not to admit of a delay, till the united states in congress assembled can be consulted: nor shall any state grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the united states in congress assembled, and then only against the kingdom or state and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the united states in congress assembled, unless such state be infested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the united states in congress assembled shall determine otherwise.
Article VII.

When land-forces are raised by any state for the common defence, all officers of or under the rank of colonel, shall be appointed by the legislature of each state respectively by whom such forces shall be raised, or in such manner as such state shall direct, and all vacancies shall be filled up by the state which first made the appointment.

Article VIII.

All charges of war, and all other expenses that shall be incurred for the common defence or general welfare, and allowed by the united states in congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several states, in proportion to the value of all land within each state, granted to or surveyed for any Person, as such land and the buildings and improvements thereon shall be estimated according to such mode as the united states in congress assembled, shall from time to time direct and appoint. The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several states within the time agreed upon by the united states in congress assembled.

Article IX.

The united states in congress assembled, shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth article—of sending and receiving ambassadors—entering into treaties and alliances, provided that no treaty of commerce shall be made whereby the legislative power of the respective states shall be restrained from imposing such imposts and duties on foreigners, as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever—of establishing rules for deciding in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the united states shall be divided or appropriated—of granting letters of marque and reprisal in times of peace—appointing courts for the trial of piracies and felonies committed on the high seas and establishing courts for receiving and determining finally appeals in all cases of captures, provided that no member of congress shall be appointed a judge of any of the said courts.

The united states in congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting or that hereafter may arise between two or more states concerning boundary, jurisdiction or any other cause whatever; which authority shall always be exercised in the manner following. Whenever the legislative or executive authority or lawful agent of any state in controversy with another shall present a petition to congress, stating the matter in question and praying for a hearing, notice thereof shall be given by order of congress to the legislative or executive authority of the other state in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question; but if they cannot agree, congress shall name three persons out of each of the united states, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen, and from that number not less than seven, nor more than nine names as congress shall direct, shall in the presence of congress be drawn out by lot, and the persons whose names shall be so drawn or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always as a major part of the judges who shall hear the cause shall agree in the determination: and if either party shall neglect to attend at the day appointed, without showing reasons, which congress shall judge sufficient, or being present shall refuse to strike, the congress shall proceed to nominate three persons out of each state, and the secretary of congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court to be appointed, in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear to defend their claim or cause, the court shall nevertheless proceed to
pronounce sentence, or judgment, which shall in like manner be final and decisive, the judgment or sentence and other proceedings being in either case transmitted to congress, and lodged among the acts of congress for the security of the parties concerned: provided that every commissioner, before he sits in judgment, shall take an oath to be administered by one of the judges of the supreme or superior court of the state, where the cause shall be tried, "well and truly to hear and determine the matter in question, according to the best of his judgment, without favor, affection or hope of reward:" provided also that no state shall be deprived of territory for the benefit of the united states.

All controversies concerning the private right of soil claimed under different grants of two or more states, whose jurisdictions as they may respect such lands, and the states which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall on the petition of either party to the congress of the united states, be finally determined as near as may be in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different states.

The united states in congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective states—fixing the standard of weights and measures throughout the united states—regulating the trade and managing all affairs with the Indians, not members of any of the states, provided that the legislative right of any state within its own limits be not infringed or violated—establishing and regulating post offices from one state to another, throughout all the united states, and exacting such postage on the papers passing through the same as may be requisite to defray the expenses of the said office—appointing all officers of the land forces, in the service of the united states, excepting regimental officers—appointing all the officers of the naval forces, and commissioning all officers wherever in the service of the united states—making rules for the government and regulation of the said land and naval forces, and directing their operations.

The united states in congress assembled shall have authority to appoint a committee, to sit in the recess of congress, to be denominated "A Committee of the States," and to consist of one delegate from each state; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the united states under their direction—to appoint one of their number to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years; to ascertain the necessary sums of Money to be raised for the service of the united states, and to appropriate and apply the same for defraying the public expenses—to borrow money, or emit bills on the credit of the united states, transmitting every half year to the respective states an account of the sums of money so borrowed or emitted,—to build and equip a navy—to agree upon the number of land forces, and to make requisitions from each state for its quota, in proportion to the number of white inhabitants in such state; which requisition shall be binding, and thereupon the legislature of each state shall appoint the regimental officers, raise the men and cloath, arm and equip them in a soldier like manner, at the expense of the united states, and the officers and men so cloathed, armed and equipped shall march to the place appointed, and within the time agreed on by the united states in congress assembled: But if the united states in congress assembled shall, on consideration of circumstances judge proper that any state should not raise men, or should raise a smaller number than its quota, and that any other state should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, cloathed, armed and equipped in the same manner as the quota of such state, unless the legislature of such state shall judge that such extra number cannot be safely spared out of the same, in which case they shall raise officer, cloathe, arm and equip as many of such extra number as they judge can be safely spared. And the officers and men so cloathed, armed and equipped, shall march to the place appointed, and within the time agreed on by the united states in congress assembled.

The united states in congress assembled shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain
the sums and expenses necessary for the defence and welfare of the united states, or any of them, nor emit bills, nor borrow money on the credit of the united states, nor appropriate money, nor agree upon the number of vessels of war, to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander in chief of the army or navy, unless nine states assent to the same: nor shall a question on any other point, except for adjourning from day to day be determined, unless by the votes of a majority of the united states in congress assembled.

The congress of the united states shall have power to adjourn to any time within the year, and to any place within the united states, so that no period of adjournment be for a longer duration than the space of six Months, and shall publish the Journal of their proceedings monthly, except such parts thereof relating to treaties, alliances or military operations as in their judgment require secrecy; and the yeas and nays of the delegates of each state on any question shall be entered on the Journal, when it is desired by any delegate; and the delegates of a state, or any of them, at his or their request shall be furnished with a transcript of the said Journal, except such parts as are above excepted, to lay before the legislatures of the several states.

Article X.

The committee of the states, or any nine of them, shall be authorized to execute, in the recess of congress, such of the powers of congress as the united states in congress assembled, by the consent of nine states, shall from time to time think expedient to vest them with; provided that no power be delegated to the said committee, for the exercise of which, by the articles of confederation, the voice of nine states in the congress of the united states assembled is requisite.

Article XI.

Canada acceding to this confederation, and joining in the measures of the united states, shall be admitted into, and entitled to all the advantages of this union: but no other colony shall be admitted into the same, unless such admission be agreed to by nine states.

Article XII.

All bills of credit emitted, monies borrowed and debts contracted by, or under the authority of congress, before the assembling of the united states, in pursuance of the present confederation, shall be deemed and considered as a charge against the united states, for payment and satisfaction whereof the said united states, and the public faith are hereby solemnly pledged.

Article XIII.

Every state shall abide by the determinations of the united states in congress assembled, on all questions which by this confederation are submitted to them. And the Articles of this confederation shall be inviolably observed by every state, and the union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them; unless such alteration be agreed to in a congress of the united states, and be afterwards confirmed by the legislatures of every state.

AND WHEREAS it hath pleased the Great Governor of the World to incline the hearts of the legislatures we respectively represent in congress, to approve of, and to authorize us to ratify the said articles of confederation and perpetual union. KNOW YE that we the undersigned delegates, by virtue of the power and authority to us given for that purpose, do by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said articles of confederation and perpetual union, and all and singular the matters and things therein contained: And we do further solemnly plighted and engage the faith of our respective constituents, that they shall abide by the determinations of the united states in congress assembled, on
all questions, which by the said confederation are submitted to them. And that the articles thereof shall be inviolably observed by the states we respectively represent, and that the union shall be perpetual. In Witness whereof we have hereunto set our hands in Congress. Done at Philadelphia in the state of Pennsylvania the ninth Day of July in the Year of our Lord one Thousand seven Hundred and Seventy-eight, and in the third year of the independence of America.

On the part & behalf of the State of New Hampshire:
   JOSIAH BARTLETT
   JOHN WENTWORTH JUNR.
   August 8th 1778

On the part and behalf of the State of Massachusetts Bay
   JOHN HANCOCK
   SAMUEL ADAMS
   ELBRIDGE GERRY
   FRANCIS DANA
   JAMES LOVELL
   SAMUEL HOLTEN

On the part and behalf of the State of Rhode Island and
   Providence Plantations
   WILLIAM ELLERY
   HENRY MARCHANT
   JOHN COLLINS

On the part and behalf of the State of Connecticut
   ROGER SHERMAN
   SAMUEL HUNTINGTON
   OLIVER WOLCOTT
   TITUS HOSMER ANDREW ADAMS

On the Part and Behalf of the State of New York
   JAMES DUANE
   FRANCIS LEWIS
   WM Duer
   GOUV MORRIS

On the Part and in Behalf of the State of New Jersey,
   November 26, 1778.
   JNO WITHERSPOON
   NATHANIEL SCUDDER

On the part and behalf of the State of Pennsylvania
   ROBT MORRIS
   DANIEL ROBERDEAU
   JOHN BAYARD SMITH
   WILLIAM CLINGAN
   JOSEPH REED
   22nd July 1778

On the part & behalf of the State of Delaware
   THO McKEAN
   February 12, 1779
   JOHN DICKINSON
   May 5th 1779
   NICHOLAS VAN DYKE

On the part and behalf of the State of Maryland
   JOHN HANSON
   March 1 1781
   DANIEL CARROLL do

On the Part and Behalf of the State of Virginia
   RICHARD HENRY LEE
   JOHN BANISTER
   THOMAS ADAMS
   JNo HARVIE
   FRANCIS LIGHTFOOT LEE

On the part and Behalf of the State of No Carolina
   JOHN PENN
   July 21st 1778
   CORNS HARNETT
   JNo WILLIAMS

On the part & behalf of the State of South Carolina
   HENRY LAURENS
   WILLIAM HENRY DRAYTON
   JNo MATHEWS
   RICHD HUTSON
   THOs HEYWARD Junr

On the part & behalf of the State of Georgia
   JNo WALTON
   24th July 1778
   EDWD TELFAIR
   EDWD LANGWORTHY
Addendum: Notes on the Constitutional Convention's Plans and Compromises

I. The Virginia Plan (Edmund Randolph)
   A. Bicameral Legislature
      1. lower house based on population, delegates popularly elected
      2. upper house chosen by lower from nominees of state legislatures
      3. voting: based on money contributed or free population or both
      4. broad legislative powers
   B. Single Executive
      1. chosen by Congress
      2. one term only
      3. authority to execute laws and exercise executive rights
   C. Supreme and Inferior Courts
      1. judges appointed by Congress
      2. term for life
   D. Council of Revision
      1. veto power over national and state legislatures
   E. Federal/State Relations
      1. procedure for the admission of new states
      2. guarantee of a republican form of government
      3. federal supremacy, power to force state compliance

II. The New Jersey Plan (William Patterson)
   A. Unicameral Legislature
      1. delegates chosen by their state legislatures
      2. voting: each state delegation has one vote
      3. powers of Congress enlarged from the Articles of Confederation
         a) the states collected taxes but Congress could act if states defaulted
         b) power to regulate commerce
   B. Plural Executive
      1. chosen by Congress
      2. one term only
      3. power to execute laws, direct military operations, appoints officers, ministers, judges
   C. Supreme Court
      1. appointed by Plural Executive
      2. term for life
   D. Federal/State Relations
      1. Acts of Congress and treaties are the "supreme law of the respective states"
      2. conflicting state laws forbidden
      3. Plural executive empowered to use force on non-cooperative states

III. The Pinckney Plan (Charles Pinckney of South Carolina)
   A. Bicameral Legislature
      1. lower house popularly elected (counting 3/5 of the Negro population)
      2. upper house chosen by the lower house
      3. voting: each delegate and senator would have one vote
      4. broad legislative powers
B. President
   1. elected by Congress
   2. one year term of office
C. A Federal Court
   1. appointed by Congress
   2. term for life
D. Admiralty Courts
   1. possibly established by Congress in each state
   2. term for life
E. Federal/State Relations
   1. admission of new states
   2. no state armies
   3. no state compacts with foreign governments
   4. state laws to be approved by Congress before becoming effective

IV. The Hamilton Plan (Alexander Hamilton, New York)
A. Bicameral Legislature
   1. Assembly popularly elected for 3 year terms
   2. Senate elected for life terms by people’s electors
   3. broadest law making power necessary for defense and general welfare
   4. Senate alone to have the power to declare war, approve treaties, and make appointments
B. President
   1. elected for life term by people’s electors within each state
   2. powers include veto, execution of laws, war, treaties, appointments, pardons
C. Supreme Court
   1. appointed by the President with consent of the Senate
   2. life term
   3. Legislature could institute courts in each state
D. Federal/State Relations
   1. state laws contrary to the Constitution void
   2. state governors appointed by federal government with veto power over state legislation
   3. a special court to hear controversies between the U.S. and particular states over territories
V. The Great (Connecticut) Compromise (Roger Sherman)
A. Bicameral Legislature
   1. A House of Representatives apportioned according to the number of freemen in each state and 3/5 of the slave population, chosen by the people of the several states.
   2. A Senate consisting of 2 senators from each state, elected by the state legislatures.

VI. The Southern Compromises
A. The 3/5 Compromise: In exchange for counting 3/5 of the slaves in each state for representation, the south agreed to count them for direct tax purposes as well.
B. The Slave Trade Compromise: In exchange for support of the Constitution, it was agreed that the Congress would not ban the slave trade until 1808.
C. The Export Compromise: It was agreed that the Constitution would forbid export taxes, appeasing Southern economic interests.

VII. The Presidential Election Compromise
A. A strong President elected by the people v. a weak President elected by Congress
   1. An electoral college system was created
   2. Each state would have the power to decide how to choose its electors
   3. Each state was given a number of electors equal to its total representation in Congress.
Addendum: Notes on Federalism

I. The Arguments For Federalism
   A. Tradition
      1. Americans are accustomed to federalism
      2. We believe it has served us reasonably well
   B. Responsiveness to Local Needs
      1. It secures the benefit of local self-government and civic training
      2. Services may be adapted to suit community needs rather than relying on
         "far off" Washington D.C.
   C. Freedom
      1. It safeguards individual rights
      2. An all powerful central government might sweep away individual liberties,
         but fractionalization prevents the evil of power
   D. Stability
      1. Under federalism there is greater stability
      2. Laws change more gradually to match changes in social thought, mores
      3. With its many levels of governments, the existence of different election
         dates, variety of issues, there is much less drastic turnover of political
         leadership than under a unitary system of government
   E. Effective Balance
      1. It is an effective balance between fractionalization and centralization
   F. Progress
      1. It allows for experimentation and adaptation by the states

II. The Arguments Against Federalism
   A. Lack of Unity
      1. A “spirit of unity” is difficult to build and sustain because of federalism’s
         competing units and constant disputes
      2. Nationalism v. States’ Rights
   B. Federalism is a Complex System of Government
      1. It is hard to understand and difficult to operate
      2. The vast number of local governments makes it difficult for many
         Americans to know which government is responsible for certain functions
   C. Delays and Deadlocks
      1. It is plagued with delays and deadlocks
      2. Local interests are able to impede national majority support of certain
         policies
   D. Federalism Results in Duplication and Overlapping of Programs
      1. This contributes to the Increased Cost of Government Services
   E. Lack of Uniformity and Uneven Law Enforcement
      1. Discrimination because of race, religion, etc. is more common
      2. There is greater economic discrimination
      3. Many states are allowed to continue low health, education, and welfare
         standards
   F. Inefficiency and Corruption
      1. Some states are slower to modernize and tolerate inefficiency
      2. Corruption is a big problem in some state and local governments
Federalism
Division of Powers between the National and State Governments

Inherent Powers of the National Government

The inherent powers of the national government are those that it may exercise simply because it is a government. Though they are not spelled out, these powers are evident.

"The power to declare and wage war, to conclude peace, to make treaties, to maintain diplomatic relations with other sovereignties, if they had never been mentioned in the Constitution, would have vested in the federal government as necessary concomitants of nationality." [United States v. Curtiss-Wright Export Corp., 299 U.S. 304 (1936)]

Powers Delegated to the National Government

Called delegated, enumerated, or express powers, these are powers specified in the Constitution, Article I, Section 8, Clauses 1 to 17. In summary, these are:

1. lay and collect taxes, duties, imposts and excises;
2. borrow money on credit of the United States;
3. regulate interstate and foreign commerce;
4. enact laws on naturalization and bankruptcy;
5. coin money, regulate its value, and fix standards of weights and measures;
6. punish counterfeiting;
7. establish post offices and post roads;
8. grant patents and copyrights;
9. create inferior courts to the Supreme Court;
10. define and punish piracies and felonies on the high seas;
11. declare war, grant letters of marque and reprisal, and make rules concerning capture;
12. raise and support an army;
13. provide and maintain a navy;
14. regulate the operation of the army and navy
15. provide for a militia to execute federal laws, and suppress invasions and insurrections;
16. provide for organizing, arming, and disciplining the militia;
17. create the District of Columbia and exercise authority over places purchased from the states

Other delegated powers are:

18. admit new states and govern territories (Article IV, Section 3);
19. punish crimes against the U.S., including treason (Article III, Sections 2 and 3);
20. advise and consent to the president in the making of treaties and appointments of ambassadors and other public ministers and consuls (Article II, Section 2);
21. advise and consent to the president in the appointment of judges to the Supreme Court and in appointment of all other officers of the U.S. established by law except those whom Congress gives the president, courts, or department heads sole power to appoint (Article II, Section 2)
Powers Implied to the National Government

Flowing from the delegated powers are powers which are implied. Article I, Section 8, Clause 18 states: "To make all laws which shall be necessary and proper for carrying into Execution the foregoing powers, and all other powers vested by the Constitution in the government of the United States, or in any department or officer thereof." Implied powers include the power to:

01. establish banks or other corporations (implied from the delegated power to tax, borrow, and regulate commerce);
02. spend money for roads, schools, health insurance, etc. (implied from the delegated power to tax, provide for national defense, and regulate commerce);
03. create military and naval academies (implied from the delegated power to raise and support an army and navy);
04. generate electricity and sell surplus goods (implied from the delegated power to dispose of government property, and regulate commerce);
05. assist and regulate agriculture (implied from the delegated power to tax, spend for the general welfare, and regulate commerce)

Powers Reserved to the States

The Tenth Amendment to the Constitution states: "The powers not delegated to the United States by the Constitution, nor prohibited to the States, are reserved to the States respectively, or to the people."

"The Tenth Amendment . . . states but a truism that all is retained which is not surrendered." United States v. Darby, 312 U.S. 100 (1941)

Reserved powers include the following powers:

01. establish local governments;
02. establish and supervise schools;
03. provide a state militia;
04. regulate interstate commerce, labor, business and industry;
05. conduct elections for national as well as state offices;
06. protect health, safety and morals;
07. protect life and property, and maintain order;
08. ratify United States Constitutional Amendments;
09. change state constitutions and governments

Powers Concurrent in the National and State Governments

The following powers may be exercised by both the national and state governments:

01. tax;
02. borrow money;
03. charter banks and other corporations;
04. establish courts;
05. make and enforce laws;
06. take property for public purposes
07. spend money for the general welfare;
08. protect public health;
09. promote agriculture and industry
Powers Prohibited to the National Government

The national government MAY NOT:

01. suspend the writ of habeas corpus except in rebellion or invasion [Article I, Section 9, Clause 2]
02. pass bills of attainders or ex post facto laws [Article I, Section 9, Clause 3]
03. tax exports [Article I, Section 9, Clause 5]
04. give preference to one state over another in matters of commerce [Article I, Section 9, Clause 6]
05. draw money but in consequence of legal appropriations [Article I, Section 9, Clause 7]
06. grant titles of nobility, or allow officials to accept foreign gifts without consent of Congress [Article I, Section 9, Clause 8]
07. change State boundaries without the consent of the State [Article IV, Section 4]
08. establish religion, prohibit the free exercise of religion, or abridge freedom of speech or freedom of the press or the right of assembly or the right of petition [Amendment 1]
09. infringe on the right to keep and bear arms [Amendment 2]
10. quarter soldiers without consent (in peace) or without law (in war) [Amendment 3]
11. unreasonably search and seize, or issue warrants without probable cause, supported by oath and particular description [Amendment 4]
12. hold a person for capital or infamous crimes except with presentment or grand jury indictment (except in wartime), subject anyone to double jeopardy, compel self-incrimination, deny anyone due process, or take private property without just compensation [Amendment 5]
13. infringe on the rights of the criminally accused to: a speedy and public trial, an impartial jury, information as to charges, confront his accusers, subpoena witnesses, and have an attorney [Amendment 6]
14. infringe on the right to jury trial in civil cases according to the common law [Amendment 7]
15. require excessive bail, impose excessive fines, or inflict cruel and unusual punishment [Amendment 8]
16. deny or disparage other rights retained by the people [Amendment 9]
17. deny the power reserved to the States or to the people [Amendment 10]
18. extend judicial power to lawsuits against one of the United States by non-citizens of that State [Amendment 11]
19. permit slavery or involuntary servitude (except as a punishment following criminal conviction) [Amendment 13]
20. assume or pay any debt incurred in aid of rebellion against the United States [Amendment 14]
21. deny citizens the right to vote on account of race, color, or previous servitude [Amendment 15]
22. deny citizens the right to vote on account of sex [Amendment 19]
23. deny citizens the right to vote for federal officers by reason of failure to pay any poll tax or other tax [Amendment 24]
24. deny the right to vote to citizens 18 years or older [Amendment 26]

Powers Prohibited to the States

Under Article I, Section 10, Clauses 1 to 3, the State governments MAY NOT

01. enter into any treaties, alliances, or confederations;
02. grant letters of marque and reprisal;
03. coin money, emit credit, or create alternatives to gold and silver as tender;
04. pass bills of attainder or ex post facto laws;
05. impair contractual obligations;
06. grant titles of nobility;
07. lay imposts or duties or exports without Congressional consent (except as absolutely necessary for executing its inspection laws)

08. keep troops or warships in peace-time, enter into domestic or foreign agreements, or engage in war unless invaded or in imminent danger

Under Article VI, Section 2, State governments MAY NOT

09. violate the national Constitution or violate national laws

Under the process of selective incorporation, the Supreme Court has applied most of the Bill of Rights prohibitions against State government actions. The only exceptions of rights contained in the first eight amendments which have not been extended are

01. the right to indictment by grand jury indictment [Amendment 5];
02. the right to a jury trial in civil cases over $20 under common law [Amendment 7];

Amendment 9 was applied in the case of Griswold v. Connecticut 391 U.S. 479 (1965), the Supreme Court ruling that State law MAY NOT

10. abridge the right of marital privacy

Under Amendment 13, States MAY NOT

11. permit slavery or involuntary servitude (except as punishment following criminal conviction)

Under Amendment 14, States MAY NOT

12. abridge the privileges and immunities of U. S. citizens;
13. deprive any person of life, liberty, or property without due process of law;
14. deprive any person within its jurisdiction the equal protection of the laws;

Under Amendment 15, States MAY NOT

15. deny citizens the right to vote on account of race, color, or previous condition of servitude;

Under Amendment 19, States MAY NOT

16. deny citizens the right to vote on account of sex;

Under Amendment 24, States MAY NOT

17. deny citizens the right to vote for federal officers by reason of failure to pay any poll tax or other tax

Under Amendment 26, States MAY NOT

18. deny the right to vote to citizens 18 years or older;

Finally, any State may provide in its own Constitution additional prohibitions against the infringement of personal rights within its jurisdiction.