

Federalism and the United States Constitution

by **Robert Longley**

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Federalism is a compound system of government in which a single, central or “federal” government is combined with regional government units such as states or provinces in a single political confederation. In this context, federalism can be defined as a system of government in which powers are divided among two levels of government of equal status. In the United States, for example, the [system of federalism](#) — as created by the [U.S. Constitution](#) — [divides powers](#) between the national government and the various state and territorial governments.

How Federalism Came to the Constitution

While Americans take federalism for granted today, its inclusion in the Constitution did not come without considerable controversy.

The so-called Great Debate over federalism took the spotlight on May 25, 1787, when 55 delegates representing 12 of the [original 13 U.S. states](#) gathered in Philadelphia for the [Constitutional Convention](#). New Jersey was the lone state that chose not to send a delegation.

The main goal of the Convention was to revise the [Articles of Confederation](#), adopted by the Continental Congress on November 15, 1777, shortly after the end of the [Revolutionary War](#).

As the nation’s first written constitution, the Articles of Confederation provided for a decidedly weak federal government with more significant powers granted to the states.

Among the most glaring of these weaknesses were:

Each state — [regardless of its population](#) — got only one vote in Congress.

There was only one chamber of Congress rather than a [House and Senate](#).

All laws required a 9/13 [supermajority vote](#) to pass in Congress.

Members of Congress were appointed by the state legislatures rather than elected by the people.

Congress had no power to levy taxes or regulate foreign and interstate commerce.

There was no [executive branch](#) provided to enforce laws passed by Congress.

There was no [Supreme Court](#) or a [lower national court system](#).

Amendments to the Articles of Confederation required a unanimous vote of the states.

The weaknesses of the Articles of Confederation had been the caused a seemingly endless series of conflicts between the states, especially in the areas of interstate trade and tariffs. The delegates to the Constitutional Convention hoped the new covenant they were crafting would prevent such disputes. However, the new Constitution finally signed by the Founding Fathers in 1787 needed to be ratified by at least nine of the 13 states in order to take effect. This would prove to be far harder than the document's supporters had expected.

A Great Debate Over Power Erupts

As one of the most impactful aspects of the Constitution, the concept of federalism was considered extremely innovative — and controversial — in 1787. Federalism's sharing of powers by both the national and state governments was viewed to be in stark contrast to the "unitary" system of government practiced for centuries in Great Britain. Under such unitary systems, the national government allows local governments very limited powers to govern themselves or their residents. Thus, it is not surprising that Articles of Confederation, coming so soon after the end of Britain's often tyrannical unitary control of colonial America, would provide for an extremely weak national government.

Many newly-independent Americans, including some tasked with drafting the new Constitution, simply did not trust a strong national government — a lack of trust that resulted in a Great Debate.

Taking place both during the Constitutional Convention and later during the state ratification process, The Great Debate over federalism pitted the [Federalists](#) against the [Anti-Federalists](#).

Headed by [James Madison](#) and [Alexander Hamilton](#), the Federalists favored a strong national government, while the Anti-Federalists, led by [Patrick Henry](#) of Virginia, favored a weaker U.S. government leaving more power to the states.

Opposed to the new Constitution, the Anti-Federalists argued that the document's provision of federalism promoted a corrupt government, with the [three separate branches](#) constantly battling each other for control. In addition, the Anti-Federalists stirred fear among the people that a strong national government might allow the [President of the United States](#) to act as a virtual king.

In defending the new Constitution, Federalist leader James Madison wrote in the “[Federalist Papers](#)” that the system of government created by the document would be “neither wholly national nor wholly federal.” Madison argued that federalism’s system of shared powers would prevent each state from acting as its own sovereign nation with the power to override the laws of the Confederation.

Indeed, the Articles of Confederation had unequivocally stated, “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.”

Federalism Wins the Day

On September 17, 1787, the proposed Constitution — including its provision for federalism — was signed by 39 of the 55 delegates to the Constitutional Convention and sent to the states for ratification.

Under Article VII, the new Constitution would not become binding until it had been approved by the legislatures of at least nine of the 13 states.

In a purely tactical move, the Federalist supporters of the Constitution began the ratification process in those states where they had encountered little or no opposition, postponing the more difficult states until later.

On June 21, 1788, New Hampshire became the ninth state to ratify the Constitution. Effective March 4, 1789, the United States officially became governed by the provisions of the U.S. Constitution. Rhode Island became the thirteenth and final state to ratify the Constitution on May 29, 1790.

The Debate Over the Bill of Rights

Along with the Great Debate over federalism, a controversy arose during the ratification process over the Constitution’s perceived failure to protect the basic rights of American citizens.

Led by Massachusetts, several states argued that the new Constitution failed to protect the basic individual rights and freedoms that the British Crown had denied the American colonists — the freedoms of speech, religion, assembly, petition, and the press. In addition, these states also objected to the lack of powers granted to the states.

In order to ensure ratification, supporters of the Constitution agreed to create and include the Bill of Rights, which at the time, included [twelve rather than 10 amendments](#).

Mainly to appease Anti-Federalists who feared that the U.S. Constitution would give the federal government total control over the states, Federalist leaders agreed to add the [Tenth Amendment](#), which specifies 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.”

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