

1.3 Foundations

SSCG5: Demonstrate the knowledge of the federal system of government described in the United States Constitution.

SSCG5a: Explain and analyze the relationship of state governments to the national government

A system of Government to divide power between National, State and Local Government

Some powers are given to each of the different parts.

A major Strength is that it makes the government more responsive

FEDERALISM



NATIONAL



STATE



LOCAL

SSCG5: Demonstrate the knowledge of the federal system of government described in the United States Constitution.

SSCG5b: Define and provide examples of enumerated, implied, concurrent, reserved, and denied powers.

Enumerated powers

Expressed (Enumerated) Powers

- Powers specifically given to the Congress in Article 1, Section 8 of the Constitution
 - Commerce
 - Taxation
 - Borrow money
 - Currency
 - Bankruptcy
 - Declare War
 - (more)



Implied Powers

- Article I Section 8 Clause 18
Necessary and Proper Clause
 - *To make all Laws which shall be necessary for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or any Department or Officer thereof.*
 - Interpreted as convenient and useful
 - Upheld in McCulloch v. Maryland

Examples



- **Expressed Power: Raise an Army**

Implied Power: Establish a draft to raise an Army

Implied Power: Develop new armored tanks

Implied Power: Construct military bases



- **Expressed Power: Collect Taxes**

Implied Power: Establish the IRS (Internal Revenue Service)

Implied Power: Establish a national bank

Implied Power: Punish those who fail to pay their taxes



- **Expressed Power: Regulate commerce**

Implied Power: Prohibit the importation of certain goods

Implied Power: Prohibit the exportation of certain goods

Concurrent Powers

- Powers that both the National government and state governments possess and exercise or share together



- Collect taxes
- Borrow money
- Establish courts
- Define crimes and set punishments
- Claim private property for public use



Reserved Powers

- Powers that the states exercise but generally the federal (national) government does not

- Marriage and divorce laws
- Speed limits
- Regulate alcoholic beverages
- Establish public schools
- Licenses requirements for professionals
- Conduct elections
- Establish local governments



Denied Powers

Powers prohibited by both the national and state governments

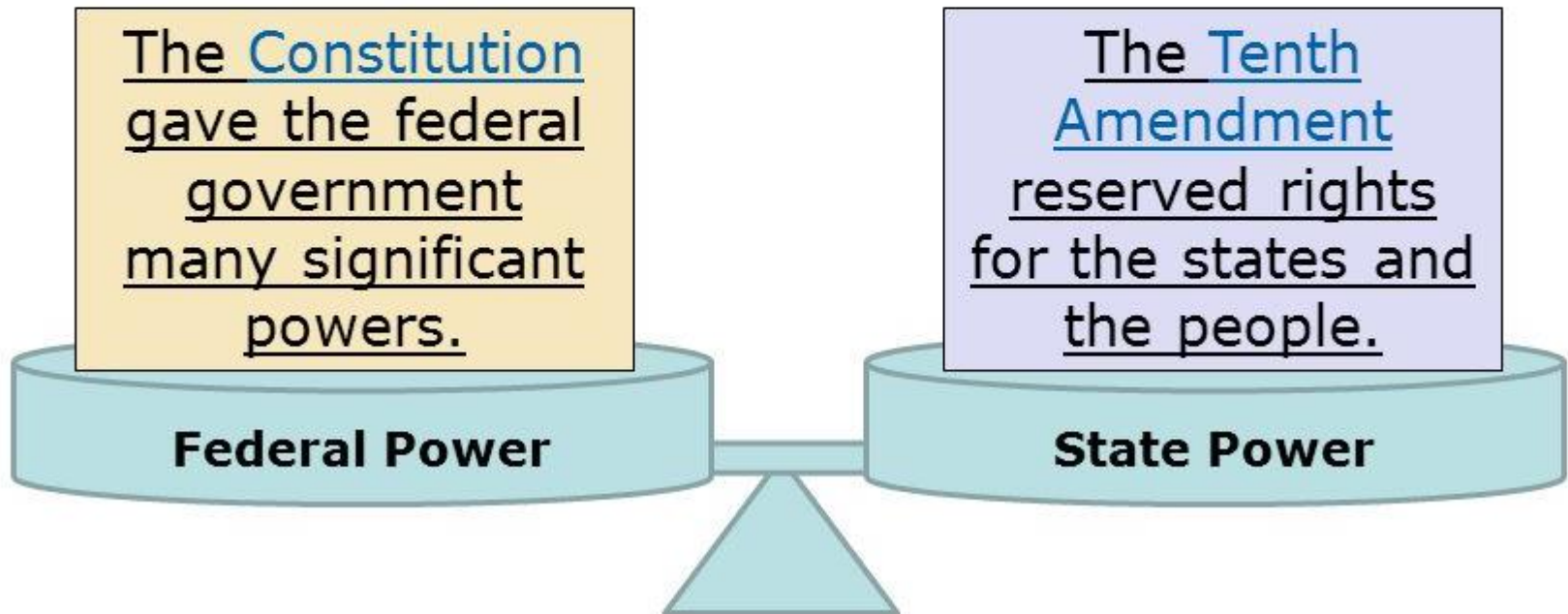
- The **Writ of Habeas Corpus** shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it
- No **bill of attainder** or **ex post facto law** shall be passed
- **No tax or duty** shall be laid on articles exported from any state
- **No title of nobility** shall be granted by the U.S.
- No person holding office shall accept any gift, emolument, office, or title from any **foreign government**

SSCG5: Demonstrate the knowledge of the federal system of government described in the United States Constitution.

SSCG5c: Analyze the ongoing debate that focuses on the balance of power between state and national governments as it relates to current issues.

Federal vs State Power

Since the nation's founding, Americans had debated over the **balance of power between the states and the federal government.**



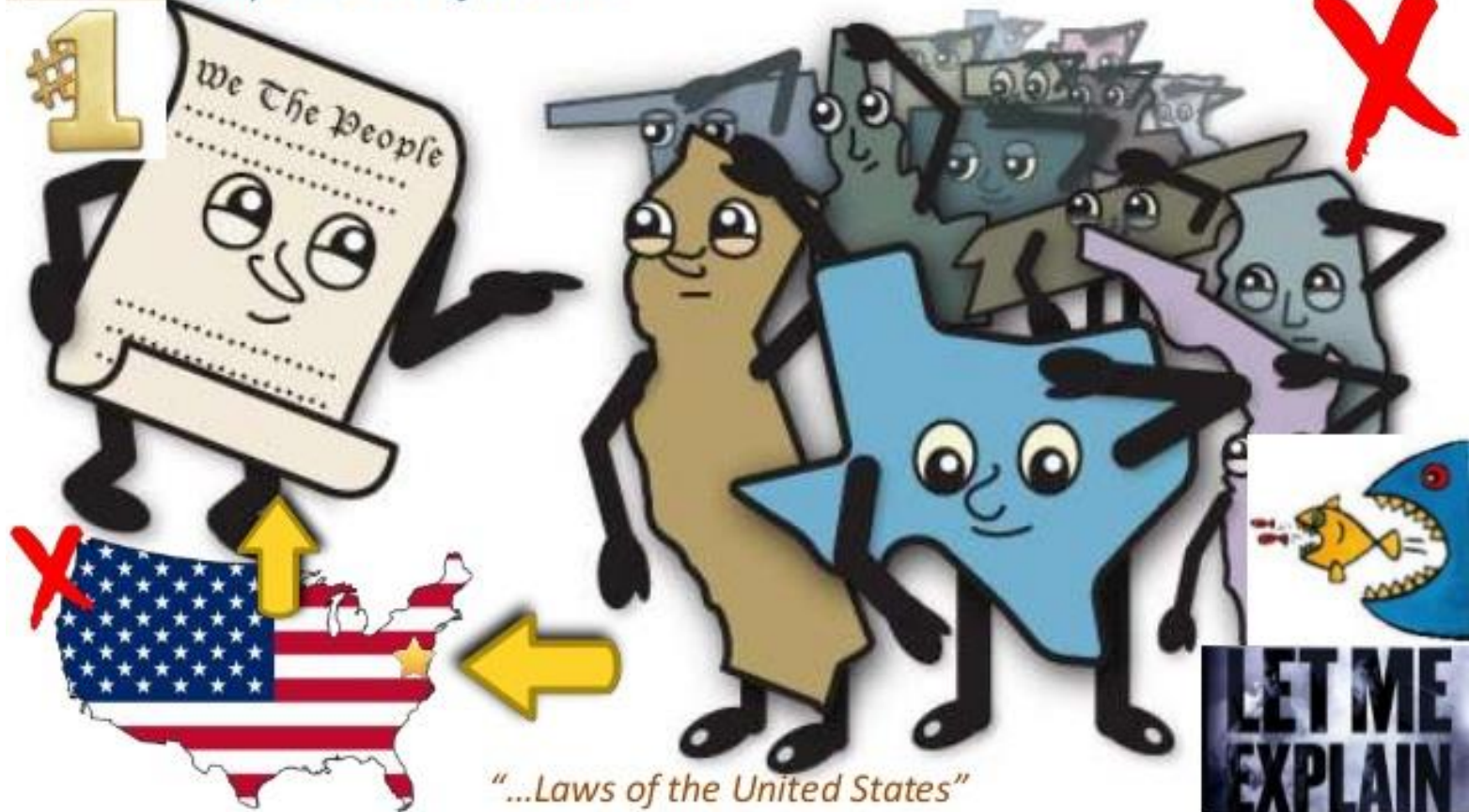
SSCG5: Demonstrate the knowledge of the federal system of government described in the United States Constitution.

SSCG5d: Analyze the Supremacy Clause found in Article VI and the role of the U.S. Constitution as the “supreme law of the land”.

Article VI of the Constitution (“The Supremacy Clause”)-
State governments may not make any law or take any action
that conflicts with **the U.S. Constitution or National laws**

Article VI

“Supreme Law of the Land”



SSCG5: Demonstrate the knowledge of the federal system of government described in the United States Constitution.

SSCG5e: Describe the roles of Congress and the states in the formal process of amending the Constitution

The Amendment Process

During its over 200-year history, the Constitution has only been amended (changed) 27 times. Article V of the Constitution details how the document can be amended.

AMENDMENT PROPOSAL

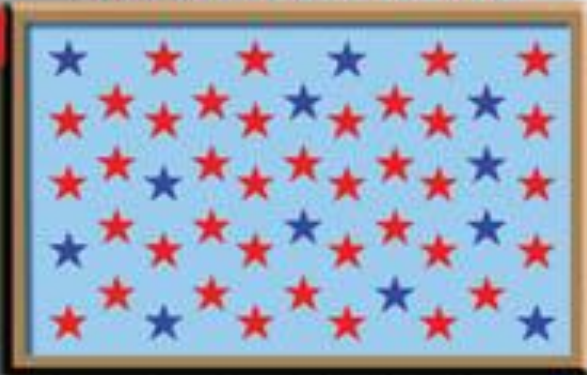


Amendment is proposed by a two-thirds vote in both houses of Congress.



Amendment is proposed at a national constitutional convention requested by two-thirds of the state legislatures.

AMENDMENT RATIFICATION



Amendment is ratified by three-fourths of the state legislatures.



Amendment is ratified at three-fourths of the special conventions held by the states.

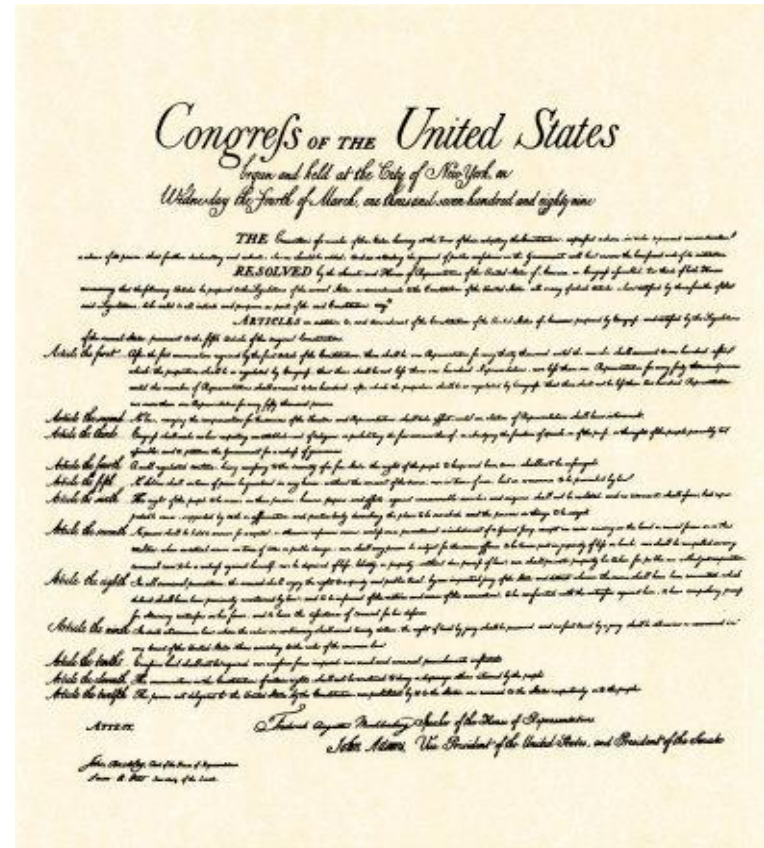


SSCG6: Analyze the meaning and importance of each of the rights guaranteed under the Bill of Rights and how each is secured.

The Bill of Rights

The First 10 Amendments to the Constitution

- The Bill of Rights tried to guarantee certain rights
- However, none of these rights are absolute



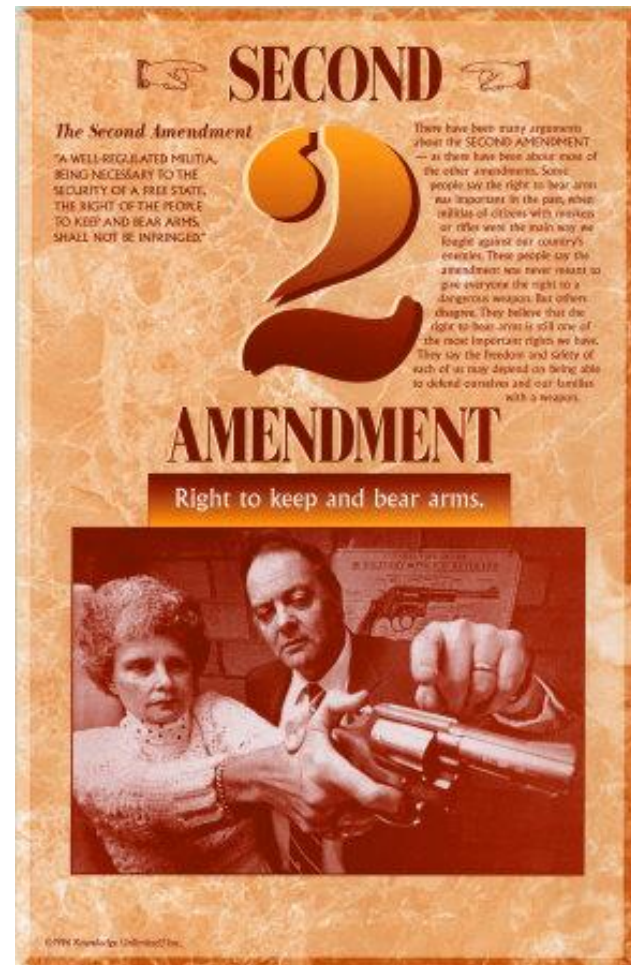
1st Amendment

- Guarantees freedom of religion, speech, the press, assembly, and petition.
- Limitations?
 - Religion
 - Establishment - No National Religion
 - Free Exercise - Believe what you want (mostly)
 - Speech
 - Clear and Present Danger
 - Can't say things that will bring harm to our country (Kill the President!)
 - Sometimes called fighting words
 - Libel
 - Written statement that is found to be false and damaging
 - Slander
 - Oral statement that is found to be false and damaging

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2nd Amendment

- Protects the right to bear arms, which means the right to own a gun.
- Limitations:
 - Mostly done at state level
 - Licenses
 - Certifications



3rd Amendment

- “No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.”
 - This means that we cannot be forced to house or quarter soldiers.

4th Amendment

- Protects the people from unreasonable searches and seizures.
- Police must have a warrant to enter our homes.
 - Means the government cannot take our property, papers, or us, without a valid warrant based on probable cause (good reason).
- What if it is?
 - Exclusionary rule
 - Prohibits evidence obtained during illegal from being used against you

5th Amendment

- Protects people from being held for committing a crime unless they are properly indicted
 - You may not be tried twice for the same crime
 - Called double jeopardy
 - You don't have to testify against yourself in court.
 - Called self-incrimination
 - Miranda vs. Arizona
 - Eminent Domain
 - Government cant take your property w/o cause

6th Amendment

- Guarantees a speedy trial
 - you can't be kept in jail for over a year without a trial
- Guarantees an impartial jury
 - doesn't already think you are guilty
- Guarantees that the accused can confront witnesses against them
- Guarantees the accused must be allowed to have a lawyer



7th Amendment

- Guarantees the right to a speedy civil trial.
 - Two types of trial
 - Civil
 - 2 people sue each other
 - divorce
 - Criminal
 - The government sues you for damages
 - Murder
 - Theft
 - Vandalism

8th Amendment

- Guarantees that punishments will be fair and not cruel
 - What about capital punishment?
- No excessive Bail



9th Amendment

- All rights not stated in the Constitution and not forbidden by the Constitution belong to the people.
 - This means that the states can do what they want if the Constitution does not forbid it.

10th Amendment

- States that any power not granted to the federal government belongs to the states or to the people.