

FEDERALISM: POURING POWER INTO THE FEDERAL GOVERNMENT

Abstract:

This lesson focuses on the distribution of powers called federalism. It visualizes powers between federal and state government as designed in the Constitution and as played out both historically and with present day current events.

Learning Objectives:

- Students will understand the concept of federalism as a division of powers between one national and several state governments.
- Students will explain the delegation of government powers flowing from natural rights to federal and state levels of government.
- Students will explore historical and current issues in the evolution and development of federalism.

Materials Needed:

1 large clear glass water pitcher, 13 small clear glasses, 1 large clear glass jar.

Optional: copies of student reading on federalism and handout on powers of government.

Time Needed: One class period

Grade Level: Grades 5 – 12 (depending on complexity of issues introduced)

Procedures:

1. Brainstorm a list of rights. Help students explore the meaning of the word “rights.” Webster defines right as “a just claim or title, whether legal, prescriptive, or moral. We the People text defines rights as “moral or legal claims justified in ways that are generally accepted within a society or the international community.”

Many of the drafters of the Declaration of Independence and the Constitution believed in “natural law.” This is demonstrated in the words of the Declaration of Independence.

We hold these truths to be self evident, that all men are
Created equal, that they are endowed by their Creator with
Certain unalienable Rights, that among these are Life, Liberty,
and the pursuit of happiness.

That to secure these rights, Governments are instituted among
Men, deriving their just powers from the consent of the governed.

Most Americans have some vague notion that they have certain “rights” – the right to say what they want, the right to a fair trial, the right to participate in government and to

go to any church they choose, or none at all. But few Americans have much idea of how their government was so carefully constructed to preserve their freedoms. Most particularly, they do not understand how the Constitution, that rock on which American freedom was built, works, what it means, and why it was put together the way it was.

The individuals who settled this country had a strong commitment to the protection of individual rights, or natural rights. They believed that these rights could be limited only when absolutely necessary for the good of the people.

2. Fill a large pitcher with water. Explain to the students that the water in the pitcher represents the rights had by all Americans (for the moment, do not get into a lengthy discussion of the persons left out of the protections of the constitution). Included in this group of rights would be those generated during the brainstorm in step 1.
3. With the water in the pitcher, fill 13 small glasses. Retain about half of the water in the pitcher. Explain that when the 13 colonies were organized, the citizens of each colony gave up a limited amount of power (rights) to the colony to provide services needed by the citizens. In most cases, these were services best performed by one organization for the use and benefit of all citizens (banking services, militia, printing money, trade, etc.)

Under the Articles of Confederation, the colonies operated independently, exercising the powers given to them by the people. This principle, called state sovereignty, created problems for the newly independent country. The federal government, under the Articles, did not have the authority to maintain and fund an army, could not enforce the payment of taxes to pay the debts of the Revolutionary War and the costs of the government, could not regulate trade between the colonies and other countries, and could only rely on the voluntary compliance by the colonies.

As historian Peter Onuf points out, "The Articles of Confederation were premised on the existence of thirteen distinct political communities and effectively barred a coordinated response to national political problems." In fact, many Americans believed that the diversity of interests and attitudes among the states made a national government impossible. In 1787, Pierce Butler of South Carolina, who would be a delegate to the convention, wrote that the interests of the North and South are "as different as the interests of Russia and Turkey." Even George Washington spoke of how "different from each other in their manners, circumstances, and prejudices" the states were.

It was a situation that could not continue, and it did not. George Washington took the initiative by inviting officials from Virginia and Maryland to his home at Mount Vernon to decide a way to settle a dispute between the two states over the use of the Potomac River. The results brought about a second meeting in Annapolis, Maryland in 1786, in which several other states sent representatives to talk about trade and boundary problems generated by the Articles of Confederation. From that meeting came the call for a special convention to meet in Philadelphia in 1787 to revise the Articles.

Once the delegates began their discussions, they quickly realized that no amount of correcting the Articles of Confederation would give them the strong framework of central government the nation badly needed. Thus, they decided to start all over and write an entirely new plan that would replace the Articles. This plan would give the nation a government that would have the power to perform the functions necessary for a successful “united states.”

4. Pour a small amount of water from each of the 13 glasses into a large jar. Explain that this illustrates the colonies decision to give some of their powers and rights to the federal government. The water collected in the jar represents the powers of the new federal government. Remind the students that all of the power came from the people (the pitcher), some was given to the individual states (the small glasses), and some was given to the national government (the large jar). Also tell them that individuals are citizens of both their states and the federal governments.

The relationship between the powers of the individual states and the powers of the federal government is called “federalism.” This is simply an adjustment in the division of powers given by the people to the two levels of government.

5. Review the distribution of powers in chart form – those powers given to the federal government, the powers denied to the federal government, the powers reserved to the states, and the powers shared by both.
6. Introduce students to federalism topics by asking “Who has the power?” to regulate the following areas of our lives. Some possible topics include:
 - Drivers License requirements for drivers under 18 and Speed Limit laws. Under the commerce clause of the U.S. Constitution, Congress can establish a speed limit on interstate highways. Federal funds for transportation are often contingent on state’s passing certain speed limits.
 - .08 Blood Alcohol Level for Impaired Driving/Federal funds for roads
 - Health Care
 - Immigration
 - Same sex marriage
 - Medical and/or recreational marijuana

7. Summarize the lesson by swishing the water levels in small cups, large jar and pitcher to show how different issues at different times in our history may alter power at different levels of government affecting everyday politics and our rights.
8. Extension of learning: Assign a variety of federalism topics related to the evolution and development of federalism. Students present their topic to the class (definitions, historical context, topic's impact on the development of federalism) and demonstrate using the water pitcher and glasses the impact of their topic on the development of federalism.

Topics: *McCulloch v. Maryland* (1819); *Gibbons v. Ogden* (1824); Dual Federalism, Civil War Amendments; Sixteenth Amendment; Seventeenth Amendment; the New Deal; FDRs court-packing plan; cooperative federalism; creative federalism; federal grants; categorical grants; block grants; New Federalism; Contract with America; Mandates/Unfunded Mandates; Rehnquist Court decisions on federalism; No Child Left Behind; Hurricane Katrina, Economic Stimulus Package, etc.

Note: The pitcher and glasses can be left out for a while to visually remind students of federalism as current events and other government topics are discussed.

Sources:

www.teachingcivics.org

Learning Law and Democracy Foundation

The Constitution Lessons from MN Center for Community Legal Education.

The Constitution, Law in a Changing Society, Dallas, Texas 1982.

The idea of using a water pitcher and small glasses to teach about federalism was taken from a workshop for newly elected legislators conducted by Joe Daly, Professor of Law, Hamline University School of Law.