

TYPES OF GOVERNMENT POWER IN THE AMERICAN FEDERAL SYSTEM (SEE TEXTBOOK, PP. 86-88)

Note that a particular power may fall into more than one of the categories below. *Examples:* A power may be both delegated and express; a power may be both implied and concurrent.

Delegated Powers: Powers that the states have given to the national government in the U.S. Constitution. A delegated power may be either express or implied.

Example: All powers in Article I, Section 8, including powers flowing from the Necessary and Proper Clause.

Express Powers: (can also be called enumerated powers) Powers that the Constitution explicitly gives to a government (usually the national government)

Examples: Article I, Section 8 expressly gives Congress the power to coin money, to regulate its value, and to provide punishment for counterfeiting.

Implied Powers: Powers that are not explicit but that are suggested by or inferred from the express (explicitly stated) powers. Many of these powers are authorized by the Necessary and Proper Clause of Article I, Section 8.

Example: Congress has the implied power, flowing from the express powers listed in the above example, to create a national bank.

Concurrent Powers: Powers that may be exercised by either the national or the state governments.

Examples: Both the national and the state governments may levy taxes, spend money, and borrow money.

Reserved Powers: Powers that the states have not delegated to the national government but have instead kept for themselves. The Tenth Amendment notes that if the Constitution does not delegate a power to the national government or prohibit that power to the states, then that power is reserved to the states or people.

Examples: State power to regulate internal commerce, establish rules governing contract and property law, pass laws relating to public health, safety, welfare, and morals

Prohibited Powers: Powers the Constitution denies to a government

Examples: Congress may not pass ex post facto laws (Art. I, sec. 9); states may not make treaties (Art. I, sec. 10).

Inherent Powers: Powers that grow out of the very nature of a government, without needing to be granted by the Constitution. Such powers have traditionally been exercised by all sovereign governments from time immemorial.

Examples: The national government's power to acquire territory; the state and national power of eminent domain (property condemnation).