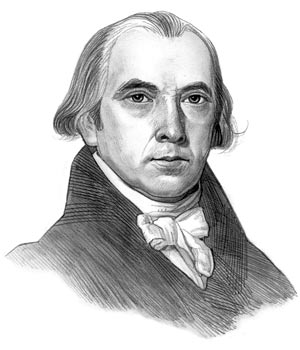
**Federalism Chpt. 3 Topics 1.7-1.9**

**1.7 Relationship Between the States and Federal Government**

**WHAT IS FEDERALISM?**

Constitutional d\_\_\_\_\_\_\_\_\_\_ of p\_\_\_\_\_\_\_\_\_ between the n\_\_\_\_\_\_\_\_\_ government and the s\_\_\_\_\_\_\_; both get their powers from Constitution, not each other.

* Constitution (federally based) replaced Articles (confederation based)
* Federal system is NOT as efficient as a unitary system (which can be good)
* Federalism debates depend upon issue at stake and rival philosophies of national action vs. decentralization (be able to explain what this means)
* Since the New Deal in the 1930s to today, there has been a shift of power from the states to the national government; since 1994 elections there has been an attempt to return power to the states
* Federalism issues are at the top of the political agenda along with the issue of devolution (what is devolution?)

****WHAT ARE POWERS GRANTED TO THE NATIONAL GOVERNMENT?**

**Powers granted ONLY to the national government are known as exclusive powers (Not all national powers are exclusive - such as tax)**

1. **Expressed** (e\_\_\_\_\_\_\_\_\_\_, d\_\_\_\_\_\_\_\_\_\_) powers
   * Actually, s\_\_\_\_\_\_\_\_\_ in the Constitution

*“The powers delegated by the Constitution to the federal government are few and defined” – James Madison*

* + Many are listed (e\_\_\_\_\_\_\_\_\_\_\_) in Article 1, Section 8

**Inherent powers**

* Not stated e\_\_\_\_\_\_\_\_\_\_\_, but held by the national government by virtue of its being a national government.
* Some of these powers come from the Preamble (certain f\_\_\_\_\_\_\_\_ p\_\_\_\_\_\_\_\_\_ powers such as i\_\_\_\_\_\_\_\_\_\_, diplomatic recognition, or acquiring territory).

1. **Implied powers**
   * Not stated e\_\_\_\_\_\_\_\_\_, but suggested i\_\_\_\_\_\_\_\_\_\_
   * Allow the national government to e\_\_\_\_\_\_\_\_\_\_ its powers beyond those expressed/enumerated in the Constitution
   * Importance of necessary and proper clause (elastic clause)
     1. Hey! Isn’t this Article I, Section 8, Clause 18
     2. Example
        1. Power to Tax (Expressed – it’s in the Constitution)
           1. Power to throw you in jail for not paying taxes (Implied – not stated in Constitution, but can be implied from an express/enumerated power)
        2. Power to raise an army, navy (Expressed – it’s in the Constitution)
           1. Power to draft people into the military (implied not stated) How do you raise an army if not by a draft, think about it.

**CONCURRENT POWERS or S\_\_\_\_\_\_\_\_\_\_\_\_ POWERS**

* Each state has concurrent powers with the national government
  + Granted to Congress, but not denied by Constitution or courts to the states>> held by b\_\_\_\_\_\_ national and state governments
* Examples:
  + Taxing
  + Borrowing
  + Establishing court system
  + Establishing law enforcement agencies

A red circle with a white circle in the middle

Description automatically generated with medium confidenceQuestions of federal/state authority are decided by courts

**Powers Denied to Congress Article I, Section 9**

**The founders also put limits on the powers of Congress**

* **Passing ex post facto laws**-A law that makes an action a crime even though it was l\_\_\_\_\_\_\_ when it was committed or increases the penalty for a crime after it has been committed. Under the Constitution, neither the states nor Congress can pass such a law.
* **Passing bills of attainder**- A law that makes a person guilty of a crime without a t\_\_\_\_\_\_\_. Neither Congress nor the states can enact such a law under the Constitution.
* Suspending h\_\_\_\_\_\_\_ c\_\_\_\_\_\_\_ except in cases of r\_\_\_\_\_\_\_\_\_\_\_ or i\_\_\_\_\_\_\_\_\_\_\_.
* **habeas corpus-** A court order directing authorities to show c\_\_\_\_\_\_\_\_\_ for why a person under detention should not be r\_\_\_\_\_\_\_\_\_\_\_\_\_.

**What Are Alternatives to Federalism?**

***UNITARY SYSTEM (REMEMBER THE SINGLE CHAIR)***

* + Places all governmental power in \_\_\_\_\_, c\_\_\_\_\_\_, g\_\_\_\_\_\_\_\_ area. In the United States, all states have unitary governments with bicameral legislatures (except Nebraska, which has a unicameral legislature). Ultimately, all local governments in a unitary state are subject to a central authority. Local gov must obey the state gov. Power comes from the state.
  + More efficient than a federal system (which can be a bad thing)
  + Why don’t we use it?
    - Not used because too reminiscent of British rule (strong, distant government that becomes t\_\_\_\_\_\_\_\_\_\_)
* ***CONFEDERATION (REMEMBER THE DIFFERENT CHAIRS)***
  + S\_\_\_\_\_\_\_\_ s\_\_\_\_\_\_ create a central government but carefully limit its power and do not give it direct authority over individuals- Articles of Confederation and Confederate States of America
  + S\_\_\_\_\_\_\_ are s\_\_\_\_\_\_\_\_ over central government
  + Why don’t we use it?
    - Not used because too reminiscent of Articles (tried and failed)

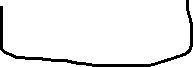
**TWO TYPES OF DIVISION OF POWERS**

**WHAT IS DUAL (“LAYER)**

* Prevalent through ~ 19\_\_
* State governments and national government each remained s\_\_\_\_\_\_\_\_\_ within their own s\_\_\_\_\_\_\_\_\_.
* Proper relationship between government and the states, portraying the states as p\_\_\_\_\_\_\_\_ components of the f\_\_\_\_\_\_\_ government -- nearly equal to the n\_\_\_\_\_\_\_\_\_\_\_ government.
* P\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_ assignments of the l\_\_\_\_\_\_\_ of g\_\_\_\_\_\_\_ were distinct, as in a l\_\_\_\_\_\_\_ cake.
* Suggested that the powers of the national government should be interpreted n\_\_\_\_\_\_\_\_\_\_ (Constitution gives the federal government \_\_\_\_\_\_\_\_ powers and the rest should be to the s\_\_\_\_\_\_ power).

**DUAL (“LAYER CAKE”) FEDERALISM**

* D\_\_\_\_\_ federalism
  + Each government unit -- nation and state -- is s\_\_\_\_\_\_\_\_\_\_ within its sphere.
  + The relationship between nation and states is best characterized by t\_\_\_\_\_\_\_ rather than c\_\_\_\_\_\_\_\_\_\_.
  + The n\_\_\_\_\_\_\_\_\_ government has a l\_\_\_\_\_\_\_\_ set of constitutional purposes. All remaining powers belong to the s\_\_\_\_\_\_.
* Of primary importance in d\_\_\_\_\_\_\_ federalism is s\_\_\_\_\_\_\_ r\_\_\_\_\_\_, which r\_\_\_\_\_\_\_\_\_ to the states all rights not speciﬁcally conferred on the national government by the Constitution. According to the theory of dual federalism, a rigid w\_\_\_\_\_\_ s\_\_\_\_\_\_\_\_ the n\_\_\_\_\_\_\_\_\_\_ and the s\_\_\_\_\_\_ governments.
* **** State governments and national government each remained supreme within their own spheres.



**WHAT IS COOPERATIVE (“MARBLE CAKE”) FEDERALISM?**

* Prevalent since ~ 1937



* M\_\_\_\_\_\_\_\_\_ of r\_\_\_\_\_\_\_\_\_\_ between the s\_\_\_\_\_\_\_\_\_ and n\_\_\_\_\_\_\_\_\_ government.



* S\_\_\_\_\_\_\_\_ powers & policy assignments, like a m\_\_\_\_\_\_\_\_ cake.



* Acknowledges a need for c\_\_\_\_\_\_\_\_\_\_\_ between s\_\_\_\_\_\_ and f\_\_\_\_\_\_\_\_ governments.



* Suggests that powers of the n\_\_\_\_\_\_\_\_\_\_\_ government should be interpreted b\_\_\_\_\_\_\_\_\_ .

**DIFFERENCE BETWEEN DUAL AND COOPERATIVE**

* A critical diﬀerence between dual and cooperative federalism is how they interpret the e\_\_\_\_\_\_\_ clause and *T\_\_\_\_ Amendment.*
* These two sections of the Constitution deﬁne the relationship between state and national governments.
  + Article \_\_, Section \_\_, lists the e\_\_\_\_\_\_\_\_\_\_\_ powers of Congress and ends with the e\_\_\_\_\_\_\_\_ clause, which gives Congress the power "to make all Laws which shall be n\_\_\_\_\_\_\_\_\_ and p\_\_\_\_\_\_\_\_\_ for carrying into Execution the foregoing Powers" meaning the e\_\_\_\_\_\_\_\_\_\_\_\_ powers.
  + The \_\_th Amendment r\_\_\_\_\_\_\_\_ for s\_\_\_\_\_\_\_ or the p\_\_\_\_\_\_\_\_\_ powers not assigned to the national government or denied to the states by the Constitution.
* D\_\_\_\_\_ federalism insists that p\_\_\_\_\_\_\_\_\_ not assigned to the national government are o\_\_\_\_\_ for s\_\_\_\_\_\_ and the people and claims that the elastic clause is i\_\_\_\_\_\_\_\_\_\_\_.
* C\_\_\_\_\_\_\_\_\_\_\_\_ federalism restricts the \_\_\_th Amendment and suggests supplements to the e\_\_\_\_\_\_\_\_\_\_ clause.
* Explain how the New Deal changed the relationship between the states and the federal government? Slide 24.

**Dual Federalism- 2 distinct separate power zones; not intruding upon each other**

**Cooperative Federalism- state & federal power overlap**

**WHAT ARE FEDERAL GRANTS?**

* Federal r\_\_\_\_\_\_\_\_\_\_\_\_ given to s\_\_\_\_\_\_ and l\_\_\_\_\_\_ governments to establish minimum national standards in important areas (air quality, water quality, transportation, education)

**PURPOSE OF FEDERAL GRANTS**

* To equalize resources among the states (both rich and poor)
* To attack n\_\_\_\_\_\_\_\_\_\_ problems, yet m\_\_\_\_\_\_\_\_ the growth of federal agencies (reduces growth of f\_\_\_\_\_\_\_\_ b\_\_\_\_\_\_\_\_\_\_\_\_ >> f\_\_\_\_\_\_\_\_\_ government simply provides m\_\_\_\_\_\_\_\_ to states and has states run the programs - under federal guidelines, of course)

**The Feds want the States to do something, the Feds can either…**

1. ***GRANT***the states money. States usually need more money, so they accept the grants even if there are significant strings attached. Congress is able to use money to usurp state power because when the states voluntarily take the money, they also sign on the dotted line to accept all the conditions of the grant.
2. ***MANDATE***the states to do it. These mandates can either be f\_\_\_\_\_\_\_ f\_\_\_\_\_\_\_, p\_\_\_\_\_\_\_\_\_\_ funded, or u\_\_\_\_\_\_\_\_\_\_\_. Feds must have the c\_\_\_\_\_\_\_\_\_\_\_ authority to issue the mandate.

**“THE CARROT” AND “THE STICK”**

* To use a common metaphor, the national government uses the need for fiscal assistance as both a carrot and a stick.
* The CARROT is the f\_\_\_\_\_\_\_\_\_ d\_\_\_\_\_\_\_\_ needed by the state, which come in the form of g\_\_\_\_\_\_-in-aid.
  + As citizens’ needs expand, the states look to the national government to assist in meeting the financial aspects of fulfilling those needs.
* *FISCAL FEDERALISM = THE CARROT*
* The STICK comes in the form of r\_\_\_\_\_\_\_\_\_\_\_ and c\_\_\_\_\_\_\_\_\_\_\_ with federal mandates to receive the money or to continue to obtain grants-in-aid.
  + Regulations such as m\_\_\_\_\_\_\_\_ wage, s\_\_\_\_\_\_\_\_\_ limits, and h\_\_\_\_\_\_\_\_\_\_ accessibility are examples of “sticks,” or mandates, that states must comply with to receive the national funds.

*REGULATORY FEDERALISM = THE S\_\_\_\_\_\_\_\_\_*

**TYPES OF FEDERAL GRANTS**

**BLOCK GRANTS**

* Granted to support a collection of g\_\_\_\_\_\_\_ p\_\_\_\_\_\_\_\_\_ (e.g. transportation, urban development, education)
* L\_\_\_\_\_ S\_\_\_\_\_\_\_ ATTACHED = States have more f\_\_\_\_\_\_\_\_\_ to spend money how they see fit = f\_\_\_\_\_ federal restrictions
* Associate these with 104th and 105th Republican Congress and d\_\_\_\_\_\_\_\_\_\_ of power back to states

**CATEGORICAL GRANTS**

* Congress a\_\_\_\_\_\_\_\_\_ f\_\_\_\_\_\_\_ for specific purposes (e.g. low-emission bus, low- income housing, STEM education)
* MORE STRINGS ATTACHED = States have l\_\_\_\_\_\_\_ f\_\_\_\_\_\_\_\_\_ to spend money how they see fit = more federal r\_\_\_\_\_\_\_\_\_
* States don’t have to accept these, but if they do, they m\_\_\_\_\_\_ c\_\_\_\_\_\_\_ with f\_\_\_\_\_\_\_ standards >> w\_\_\_\_\_\_\_\_ the power of s\_\_\_\_\_\_\_\_\_ governors and legislators

**FISCAL FEDERALISM (“THE CARROT”)**

* Fiscal federalism is the model of s\_\_\_\_\_\_\_, t\_\_\_\_\_\_\_\_, and providing g\_\_\_\_\_\_ in the federal government system.
* The national government’s primary means of i\_\_\_\_\_\_\_\_\_ s\_\_\_\_\_\_\_\_ governments is giving money to states in the form of g\_\_\_\_\_\_-in-aid (or g\_\_\_\_\_\_).
* Since World War II, states have come to rely heavily on f\_\_\_\_\_\_ money.
* Likewise, the n\_\_\_\_\_\_\_\_\_ government has also relied on the s\_\_\_\_\_\_\_\_ to administer some f\_\_\_\_\_\_ policies, a practice called f\_\_\_\_\_\_\_ federalism.
* The nation’s leaders originally designed them to help fund a\_\_\_\_\_\_\_, land grant colleges, and farm-related education.
* They grew to encompass many other t\_\_\_\_\_\_ of funding such as p\_\_\_\_\_\_ housing, urban development, and s\_\_\_\_\_\_\_\_\_ lunch programs.

**THE POLITICS OF FEDERAL GRANTS**

* D\_\_\_\_\_\_\_\_\_\_ have generally favored greater funding, but with more “strings” associated with categorical grants.
* R\_\_\_\_\_\_\_\_\_\_ have generally favored less funding, but with fewer “strings” associated with block grants.
* W\_\_\_\_\_\_\_\_\_\_ is an example of this.
  + End of e\_\_\_\_\_\_\_\_\_\_\_ status of AFDC and federal guarantee of welfare checks with passage in 1996 of Personal Responsibility and Work Opportunity Reconciliation Act (Welfare Reform Act of 1996, TANF).
  + Welfare block grants therefore replaced the welfare categorical grants.
  + Even as a block grant, the Welfare Reform Act involved federal “strings.”
    - No federal funds go to recipients who have not worked within 2 years.
    - No federal funds go to recipients who have received federal money >5 years.
    - States **must spend at least 75% of what they had previously spent on welfare – this to avoid the “race to the bottom.”**

**DEVOLUTION REVOLUTION**

* D\_\_\_\_\_\_\_\_\_\_ was a movement to transfer responsibilities of government from the f\_\_\_\_\_\_\_\_ government to s\_\_\_\_\_\_ and l\_\_\_\_\_\_\_\_ governments.
* Shifting of some authority from n\_\_\_\_\_\_\_\_ government back to the s\_\_\_\_\_\_\_\_
* Associated with Nixon, Reagan, and especially associated with 104th (1995-1997) and

105th (1997-1999) Republican Congress: “Devolution Revolution”

* 1980s (Reagan) started shifting the responsibilities and costs for many programs to state governments
* Example: Use of b\_\_\_\_\_\_\_ grants in Welfare Reform Bill of 1996 (ended welfare as federal entitlement program and gave more control to the States)

**“…government is not the solution to our problems; government is the problem."- *Ronald Reagan***

**REGULATORY FEDERALISM (“THE STICK”)**

* One way for Congress to pass m\_\_\_\_\_\_\_\_ is to impose regulations and standards on state and local governments.
* DEFINITION: A federal m\_\_\_\_\_\_\_\_\_\_\_ is a requirement or an order from the c\_\_\_\_\_\_\_\_ government that all state and local government must comply with.
* In the past, Congress has forced state governments to meet certain federal guidelines. This is known as r\_\_\_\_\_\_\_\_\_\_\_ federalism.
* **Mandate: a federal o\_\_\_\_\_\_\_\_ imposed upon states. Examples:**
  + A\_\_\_\_\_\_\_\_\_\_\_ with D\_\_\_\_\_\_\_\_\_ Act (governors and mayors don’t like because of costs to remodel)
  + Various environmental acts (e.g. Clean Air Act, Clean Water Act).
  + Individuals with Disabilities Education Act.
  + Purposes: to meet a goal of the f\_\_\_\_\_\_\_\_ government.
* **Impact upon the states:**
  + F\_\_\_\_\_\_\_\_\_ burdens, especially with u\_\_\_\_\_\_\_\_\_\_ mandates (e.g. ADA has imposed large costs upon states as they make “r\_\_\_\_\_\_\_\_\_\_\_ a\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_” for the d\_\_\_\_\_\_\_\_\_\_\_).
  + State complaints about federal heavy-handedness (e.g. if a state does not devise a plan and pay for the requirements of the Clean Air Act of 1990, the federal government will impose its own plan upon the state).

**WHAT ARE THE ADVANTAGES OF FEDERALISM?**

***1. FEDERALISM CHECKS THE GROWTH OF TYRANNY***

* I\_\_\_\_\_\_\_\_ formation of a single-interest majority
* If t\_\_\_\_\_\_\_\_\_\_ occurred in a few states, f\_\_\_\_\_\_\_\_ government could prevent its s\_\_\_\_\_\_ to others (e.g. Shays’ Rebellion).
* National government has only those powers granted to it - all others belong to states through Amendment 10.

***2. FEDERALISM ALLOWS UNITY WITHOUT UNIFORMITY***

* No need for c\_\_\_\_\_\_\_\_\_\_ on every divisive issue
* More suitable for g\_\_\_\_\_\_\_\_\_\_\_\_\_\_ large nation – allows for differences among states
* More suitable for heterogeneous people – allows for d\_\_\_\_\_\_\_\_.

***3. FEDERALISM ENCOURAGES EXPERIMENTATION***

* States are "l\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_" for public policy experimentation (gambling in NV, marijuana in CO)
* States have been in the forefront on health care, voting, air pollution control programs

***4. FEDERALISM PROVIDES TRAINING FOR FUTURE NATIONAL LEADERS***

* Training ground for state and local politicians to gain experience
* 20 of nation’s 45 presidents served as g\_\_\_\_\_\_\_\_\_\_\_ of a state = e\_\_\_\_\_\_\_\_ o\_\_\_\_\_\_\_ experience

***5. FEDERALISM KEEPS GOVERNMENT CLOSER TO THE PEOPLE***

* Provides numerous arenas for decision-making
* Local and state politics involve citizens in large numbers (most Americans had a stronger allegiance to their state and state government)
* Multiple points of a\_\_\_\_\_\_\_ for citizens. Civil Rights movement and MLK.

***6.* Allows the federal government to make unified policy when necessary or to protect minority rights when states may be violating them. (Think of civil rights legislation.) Also, allows states to make policies specific to their needs and to serve as laboratories of democracy when there isn’t a national consensus on an issue**

**WHAT ARE THE DISADVANTAGES OF FEDERALISM?**

1. Promotes i\_\_\_\_\_\_\_\_\_\_ because of states differ in the resources they can devote to providing services.

* Some states put more money to public education than others

1. Enables local interests to d\_\_\_\_\_\_\_\_ or even t\_\_\_\_\_\_\_ m\_\_\_\_\_\_\_\_\_ support for a policy.
2. Creates c\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ because the different levels of government make it difficult for citizens to know what different governments are doing.

**TOPIC 1.8 Constitutional Interpretations of Federalism**

**NECESSARY AND PROPER CLAUSE – AKA . . . IMPLIED POWERS, ELASTIC CLAUSE**

**National**

**Government**

Imagine the elastic clause as a giant pair of sweatpants.

The elastic clause, or the n\_\_\_\_\_\_\_\_\_\_\_ and p\_\_\_\_\_\_\_\_ clause, is a constitutional clause that gives Congress the p\_\_\_\_\_\_\_ to make all l\_\_\_\_\_\_\_ “n\_\_\_\_\_\_\_\_\_ and p\_\_\_\_\_\_\_\_” for executing its powers.

In other words, it means that it is i\_\_\_\_\_\_\_\_ that Congress has the i\_\_\_\_\_\_\_\_ power, for instance, to set up a national banking system (we are stretching the meaning of the power to borrow and spend), even though it’s not expressed in the Constitution.

****

**WHAT IS THE SUPREMACY CLAUSE?**

* **Article \_\_\_ (\_\_),** Paragraph 2 of the U.S. Constitution
* States may n\_\_\_\_ o\_\_\_\_\_\_\_\_\_\_ n\_\_\_\_\_\_\_\_\_\_\_ policies; this restriction also applies to local units of government, since they are agents of the states (Constitution and national l\_\_\_\_\_\_ are the s\_\_\_\_\_\_\_\_\_\_\_\_ laws)
* The S\_\_\_\_\_\_\_\_\_\_ C\_\_\_\_\_\_\_ in the Constitution states that federal law takes p\_\_\_\_\_\_\_\_\_\_\_\_ over state law when the laws conflict

**10TH AMENDMENT VS. 14TH AMENDMENT**

The arguments presented to the Supreme Court of the United States in *Plessy v. Ferguson* involve two competing amendments to the Constitution. The F\_\_\_\_\_\_\_\_\_\_ Amendment says states may not deny people e\_\_\_\_\_\_\_\_\_ p\_\_\_\_\_\_\_\_\_\_\_\_ of the l\_\_\_\_\_ and the T\_\_\_\_\_\_ Amendment reserves broad, undefined powers (often referred to as p\_\_\_\_\_\_\_\_ powers) for the states.

***Federal Power***

**Fourteenth Amendment**

Section 1. All p\_\_\_\_\_\_\_ b\_\_\_\_\_\_ or n\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in the United States and subject to the j\_\_\_\_\_\_\_\_\_\_\_\_\_ thereof, are c\_\_\_\_\_\_\_\_\_\_\_\_\_ of the United States and of the State wherein they reside. No S\_\_\_\_\_\_\_\_ shall make or enforce any l\_\_\_\_\_ which shall a\_\_\_\_\_\_\_\_\_\_ the p\_\_\_\_\_\_\_\_\_\_ or i\_\_\_\_\_\_\_\_\_\_\_\_\_ of citizens of the United States; nor shall any S\_\_\_\_\_\_ deprive any person of l\_\_\_\_\_, l\_\_\_\_\_\_\_\_, or p\_\_\_\_\_\_\_\_\_\_, without d\_\_\_\_ p\_\_\_\_\_\_\_\_\_\_ of l\_\_\_\_\_\_; nor deny to any person within its jurisdiction the e\_\_\_\_\_\_\_ p\_\_\_\_\_\_\_\_\_\_\_ of the l\_\_\_\_\_.

***State Power***

**Tenth Amendment**

The powers n\_\_\_ d\_\_\_\_\_\_\_\_\_to the U\_\_\_\_\_\_\_\_ S\_\_\_\_\_\_\_\_ by the C\_\_\_\_\_\_\_\_\_\_, nor p\_\_\_\_\_\_\_\_\_\_\_\_ by it to the s\_\_\_\_\_\_\_\_, are r\_\_\_\_\_\_\_\_\_\_\_ to the states respectively, or to the people.

Plessy argued that by restricting him to a separate train car, the State of Louisiana violated his Fourteenth Amendment rights. However, the State of Louisiana countered that it had the power under the Tenth Amendment to create laws that preserve order and public peace. Louisiana claimed that by mixing black folks and white folks in areas of public accommodations, it would spark chaos and violence.

**FEDERAL COURTS AND THE STATES**

* Actions by state and local officials can be challenged before a f\_\_\_\_\_\_\_\_ judge
* Preemption - federal laws take p\_\_\_\_\_\_\_\_\_\_\_ over state and local laws (civil rights, water quality)
* Supreme Court has generally favored powers of f\_\_\_\_\_\_\_\_\_\_\_ government over the states

***McCulloch v. Maryland* (1819) – *AMSCO pg. 48-49* REQUIRED COURT CASE**

**With the bank refusing to pay such taxes, the case went all the way to the Supreme Court**

**In 1818, the State of Maryland passed an act to impose a tax on all banks in the State of Maryland not chartered by the legislature**

**In 1816, the Federal gov’t established the Second Bank of the United States in Baltimore, Maryland**

**Chief Justice John Marshall ruled in favor of the banks and gave his ruling on two important parts:**

1. **The establishment of national banking system, even though it isn’t stated in the Constitution, is constitutional under the “Necessary and Proper Clause.”**
2. **States do not have the right to tax a federal institution (“the power to tax is a power to destroy”) based on Supremacy Clause.**

**WHAT IS THE POWER TO REGULATE INTERSTATE & FOREIGN COMMERCE?**

Through the commerce clause, Congress can regulate many activities and sustain other legislation as well

* *Gibbons v. Ogden* (1824)
* Only National government (\_\_\_\_\_\_\_\_\_\_\_\_) may r\_\_\_\_\_\_\_\_\_ i\_\_\_\_\_\_\_\_\_\_ c\_\_\_\_\_\_\_\_\_\_\_\_
* Power is not shared with the states

The federal government’s role has been greatly expanded through the interpretation of this clause

* *Heart of Atlanta Motel* v. *U.S.* (1964)
* Congress has a right to r\_\_\_\_\_\_\_\_\_ i\_\_\_\_\_\_\_\_\_\_, private businesses in the interest of promoting interstate travel
* Civil Rights Act of 1964 applied to private businesses because customers come from out- of-s\_\_\_\_\_\_\_\_\_\_

**Why It matters:**

**Constitutional Principle:**

## **[McCulloch v. Maryland (1819)](https://www.youtube.com/watch?v=weBfbqH835Y" \t "_blank)**

**Facts:**

**Holding(s)**

**Why It matters:**

**Constitutional Principle:**

## [**Gibbons v. Ogden**](https://www.youtube.com/watch?v=nm0Z32ZIwwU) **(1824)**

**Facts:**

**Holding(s)**

**Constitutional Principle:**

## [**United States v. Lopez**](https://www.youtube.com/watch?v=WnAgQKqc0F0)

**Facts:**

**Holding(s)**

**Why It matters:**

**TOPIC 1.9 Federalism in Action- Explain how the distribution of powers among three federal branches and between national and state governments impacts policy making**

**WHAT ARE POWERS GRANTED TO THE STATES?**

* States have R\_\_\_\_\_\_\_\_ P\_\_\_\_\_\_\_\_\_: the Constitution reserves for the states all powers not granted to the national government, subject only to the limitations of the Constitution
* Amendment \_\_\_\_ states that any powers not granted to the national government are reserved for the states
* Examples:
  + Establishing voting requirements
  + Running elections
  + Establishing education
  + Licensing professionals
  + Protecting community health
* Establishing vehicle code and state police
* Schools, education

**INTERSTATE RELATIONS**

* F\_\_\_\_\_\_ f\_\_\_\_\_\_ and c\_\_\_\_\_\_ (Article \_\_\_\_\_, Section 1)
  + Clause requires each state court to accept civil judgments and public records of other state courts-MARRIAGE
* Interstate privileges and immunities (Article IV, Section 2, Clause 1)
  + States must extend to c\_\_\_\_\_\_\_\_\_ of other s\_\_\_\_\_\_\_ the p\_\_\_\_\_\_\_\_\_ and i\_\_\_\_\_\_\_\_\_\_ granted to their own citizens
  + States may not impose u\_\_\_\_\_\_\_\_\_\_\_\_\_ residency requirements
* Extradition of fugitives (Article IV, Section 2, Clause 1)
  + If a person is charged in any state with a crime and flees from justice, he must be returned to that state to face charges, **EXTRADITION**

**BALANCE OF POWER DEBATE**

FEDERAL

\_\_\_\_\_\_\_\_\_ Amendment:

Constitutional Amendment that grants c\_\_\_\_\_\_\_\_\_\_\_, e\_\_\_\_\_\_\_\_ p\_\_\_\_\_\_\_\_\_, and d\_\_\_\_\_ p\_\_\_\_\_\_\_\_\_\_ under the law to all people born in the United States.

Over the years, the Fourteenth Amendment has been used to require s\_\_\_\_\_ to protect most of the same f\_\_\_\_\_\_\_\_ freedoms granted by the B\_\_\_\_ of R\_\_\_\_\_\_.

Example: African American voting rights.

STATE

\_\_\_\_\_\_\_ Amendment:

Constitutional Amendment that stipulates that all powers not given to the federal government are reserved to the S\_\_\_\_\_\_ or the p\_\_\_\_\_\_\_.

**This guarantee protects states’ reserved powers to regulate such things as marriage, divorce, and intrastate transportation and commerce, and to pass laws affecting education and public health and safety.**

**STATE**

**Reserved powers:**

Powers that o\_\_\_\_\_\_ the s\_\_\_\_\_\_ governments can carry out, such as setting up schools or running elections. The concept of reserved powers is defined in the **10th Amendment**, which states, *''The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively.''* In other words, if the Constitution does not give a certain power to the federal government and does not explicitly say that the states are not allowed to carry out that responsibility, then it is reserved for the state.

FEDERAL

**Implied powers:**

Powers of the federal government that are not explicitly named in the Constitution but are implied by the “n\_\_\_\_\_\_\_\_\_ and p\_\_\_\_\_\_\_ clause” so that the federal government can carry out its enumerated powers.

**EXPANSION OF CENTRAL GOVERNMENT FUNCTIONS**

**These constitutional powers expand the power of the federal government**

* 1. **The Supremacy Clause, Necessary and Proper Clause AKA the Elastic Clause**
  2. **The Power to Regulate Interstate and Foreign Commerce**
  3. **The War Power**
  4. **The Power to Tax and Spend**