


Federalism

Nature of Federalism

- Our Constitution does not give us a clear definition of the relationship between the National government and states.
- **Federalism:** a system in which sovereignty, or ultimate governing authority, is divided between a national government and regional (state) governments

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- Because of federalism the US' national govt. must act with due regard for the states
 - The states are protected constitutionally from being abolished and from unwarranted interference in their policies

Federalism in Historical Perspective

- Federalism provokes controversy by:
- Establishing two levels of authority creates competing centers of power and ambition
- Conflict between national and state authority is also brought on by the conciseness of the Constitution

Conciseness of the Constitution

- The Framers deliberately avoided detailed provisions. Brief phrases gave flexibility to the government they were creating
- For example: The Constitution does not define what is meant by “The Necessary and Proper Clause” (page 56) nor does it list any of the states’ “Reserved Powers” (see the 10th Amendment)

“The basic political fact of federalism”

- -David B. Truman, “is that it creates separate, self-sustaining centers of power, prestige, and profit
- Even though the national govt. has vast powers, it exercises many of its powers through state government
- Welfare/Interstate highways/unemployment issues/H2O cleanup/military power are all much handled by states! They have to meet national guidelines, but still have a lot of wiggle room.

Constitutional Powers

○ Expressed or Enumerated=

- The Constitution clearly **expresses** its wishes (we call these expressed powers)... 😊
- Specifically found in the Constitution, through a number system
- Powers given to the national government alone
- For Example: interstate commerce

Powers of Congress continued...

- Implied= By reasonable deduction from expressed powers. “Necessary and Proper Clause”. Also called the *elastic clause* because it has covered so many situations.
 - For example: Congress has provided for the building of highway systems (implied power), based upon the expressed power “to regulate interstate commerce”.
- Inherent= These belong to the National Government because it is the government of a sovereign state within the world community.
 - For example: Congress has the power to regulate immigration because the US is an independent country

Reserved and Concurrent Powers

- Reserved Powers

- Powers given to the state government alone (10th amendment)

- Concurrent Powers

- Powers shared by the national and state governments

Enumerated (Expressed) Powers of the National Government

- Power to
 - Tax
 - Borrow money (bling)
 - Regulate interstate and foreign trade
 - Coin and regulate currency
 - Create bankruptcy laws
 - Foreign Relations
 - War/national defense
 - Establish naturalization rules
- Establish post offices
- Copyrights and Patents
- Standardize weights and measures
- Regulate territories and federal areas (DC, Guam)
- Create Federal Courts below Sup. Ct.

Implied Powers

- Remember, “Necessary and Proper”...based on expressed??? We continue to battle over implied powers today!! What do they really mean?
- Power “to lay and collect taxes”-→ I Power to “punish tax evaders, regulate (license) the sale of some commodities such as alcohol and outlaw the use of others like narcotics (see the book chart)

Enumerated (Expressed) Powers of the States

- Reserved Powers, Found in the 10th amendment

- “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

- Full Faith and Credit shall be given by each State to the laws, records, and court decisions of other states.
- The citizens of each state shall have the privileges and immunities of the citizens of every other state...many questions on this one!!
- If a person charged with a crime by one state flees to another, he/she is subjected to extradition-that is, the governor of the state that finds the fugitive is supposed to return the person to the governor of the state that wants him/her.