

# Federalism... Basic Structure of Government

Class Notes...

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**Goals/Functions of Government... inherent power**

- ⇒ unite consent
- ⇒ establish system of justice
- ⇒ provide for defense
- ⇒ promote general welfare
- ⇒ ensure domestic tranquility
- ⇒ secure liberty

*McCulloch v. Maryland* (1819)  
 case involves **necessary & proper clause**  
 a state action cannot impede/prevent  
 federally exercised power

**3 Basic Structures of Government...**

- ⇒ unitary—centralized power
- ⇒ confederacy—power in components rather than highly centralized
- ⇒ federal—shared powers; multiple levels of government

*Gibbons v. Ogden* (1824)  
 case involves **supremacy clause**  
 state law invalidated when interfering with federal power to regulate interstate commerce

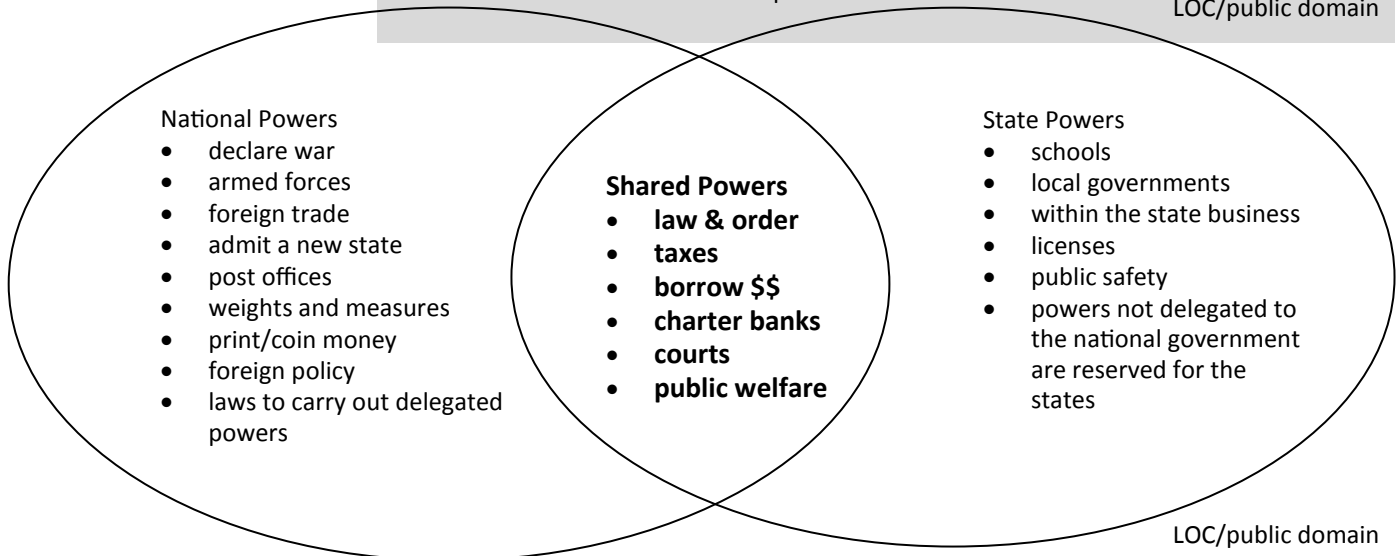
**Clauses... enumerated & implied power**

- ⇒ Supremacy—Article VI, US Constitution
- ⇒ Necessary & Proper—Article I, Section 8, US Constitution

**Components of Federalism... separation of power**

- ⇒ decentralized power
- ⇒ increased access to government
- ⇒ power sharing
  - ⇒ enumerated—written down; coin \$, declare war, regulate commerce
  - ⇒ implied—may be inferred from the Constitution
    - ⇒ necessary & proper clause (elastic clause)
  - ⇒ delegated—specifically written or designated by the Constitution for the national government
  - ⇒ reserved—10th Amend.; specifically designated to the states and the people
  - ⇒ concurrent—power shared by multiple levels of government
  - ⇒ police—authority to protect; provide security
  - ⇒ emergency—
  - ⇒ prohibited—denied to one or both levels of government
    - ⇒ ex post facto laws (make action a crime after the fact)
    - ⇒ titles of nobility
    - ⇒ bill of attainder (no trial by legislature)
    - ⇒ denial of habeas corpus (present the body; held for arrest only for legitimate reasons)
    - ⇒ no tax on exports; no taxes between states
    - ⇒ no separate state money or treaties
    - ⇒ taxation of exports

LOC/public domain



Class Notes...

**Cooperative Federalism***shared responsibilities*

a few examples

- taxation of the people
- borrowing in the name of the people
- setting up a system of justice
- administering public welfare

**Dual Federalism***levels of government are powerful within their own respective spheres*

a few examples

- states issue hunting licenses
- feds print money
- states control intra-state commerce
- feds control inter-state commerce

**Fiscal Federalism***levels of government share the people's money*

a few examples

- grants
- entitlements
- means-tested programs

**Sharing \$\$—fiscal federalism**

- ◆ block grant—federal \$ to states usually for large programs like welfare
- ◆ categorical grant—federal \$ to states awarded based on competitive application (project grant) or based on a formula established by the government (formula grant—Medicaid)
- ◆ unfunded mandate—no \$ provided for compliance with federal law

**Terms to remember...**

**Full Faith & Credit**—A4 S1, *US Constitution*; states respect laws and decisions of other states; acknowledge licenses and certificates issued by other states; respect judicial proceedings of other states (Library of Congress/public domain)

a few examples...

- orders of protection (Violence Against Women Act)
- child support enforcement
- marriage
- civil union

**Privileges & Immunities**—A4 S1, *US Constitution*; “citizens of each state shall be entitled to all privileges and immunities of citizens in the several states; no discrimination against citizens of other states (Library of Congress/public domain)

a few examples...

- no discrimination based on length of residence in a state
- based on ability level/accessibility
- buying property
- liberty of movement
- 911 response

**Interesting questions to consider...**

- ⇒ in-state/out-of-state tuition?
- ⇒ insurance portability?
- ⇒ first-cousin marriage?
- ⇒ are corporations citizens?