Chapter 3

American Federalism
Chapter 3: American Federalism

- Defining Federalism
- Constitutional Structure of American Federalism
- National Courts and Federalism
- National Budget as a Tool of Federalism
- Politics of Federalism
Defining Federalism

Federalism

- Dual federalism
- Cooperative federalism
- Marble cake federalism
- Competitive federalism
- Permissive federalism
- New federalism
Dual Federalism (1800-1932): The Taney Court, Slavery, & the Civil War

- **Dual federalism** – national and state powers are equal with distinct spheres of responsibility
  - Layer cake
- The *Dred Scott* decision
  - Congress cannot regulate slavery
- **Nullification**
- Post Civil War – volatile relationship between national and state governments
  - Commerce, Anti-Trust, and Sixteenth and Seventeenth Amendments

- **Cooperative federalism** – federal government leads national agenda with state cooperation
  - Marble Cake
- **New Deal** of the 1930s
- Great Society of the 1960s
- Federal government makes **grants** to states
New Trends in Federalism (1980-)

- Return to state’s rights, or **New Federalism**
- The Reagan Revolution
  - **Block grants**
- Devolution
  - Contract with America
- George W. Bush
  - **Preemption**
- The Supreme Court
  - Up to Roberts!
Attempts to Balance National and State Power

- Redistributive and Developmental Policies
  - “Pork” problems
  - The No Child Left Behind Act of 2001
  - Patient Protection and Affordable Care Act of 2010

- Progressive Federalism
  - “Laboratories of democracy”
Defining Federalism

Alternatives to Federalism

- Unitary system
- Confederation
Defining Federalism

Why Federalism?

Advantages
- Checks the growth of tyranny
- Allows unity without conformity
- Encourages experimentation
- Provides training and develops leaders
- Keeps government closer to the people

Disadvantages
- Difficult to respond quickly to national problems
- Difficult to hold elected officials accountable
- Lack of uniformity leads to conflict
- Variation in policies creates redundancies and inefficiencies
The Constitutional Structure of American Federalism

- Powers of national government are delegated to it.
- National government is supreme.
- State governments have reserved powers.
- Both levels of government are denied some powers.
Powers of the National Government

- **Delegated** – powers explicitly given to the legislative, executive, and judicial branches
- **Implied** – necessary and proper clause
- **Inherent** – do not depend on constitutional grants but grow out of the very existence of the national government
The Constitutional Structure of American Federalism

Other National Powers

• The National Supremacy Article
• The War Power
• The Power to Regulate Commerce
• The Power to Tax and Spend
The Constitutional Structure of American Federalism

Powers of the State

- **Reserve** – 10th Amendment grants powers not exclusive to federal government to the states so long as they don’t conflict with national law
- **Concurrent** – powers shared by both levels
How is governmental power distributed in the federal system?

**NATIONAL POWERS (ENUMERATED POWERS)**
- Collect duties, imposts, and excises
- Regulate commerce with foreign nations, among the states, and with Indian tribes
- Establish rules of naturalization
- Coin money
- Establish a post office
- Declare and conduct war
- Provide for an army and a navy
- Make laws necessary and proper to carry out Article I powers

**CONCURRENT POWERS**
- Tax
- Borrow money
- Establish courts
- Make and enforce laws
- Charter banks and corporations
- Spend money for the general welfare

**STATE POWERS (RESERVED POWERS)**
- Set times, places, and manner of elections and appoint electors
- Ratify amendments to the U.S. Constitution
- Take measures for public health, safety, and morals
- Exert powers the Constitution does not delegate to the national government or prohibit the states from using
- Establish local governments
- Regulate commerce within a state
The Constitutional Structure of American Federalism

Limited Powers

States
- Making treaties
- Interfering with commerce of other nations
- Coining money
- Taxing imports or exports
- Taxing foreign ships
- Keeping troops in time of peace
- Engaging in war

National
- Refrain from exercising its powers in such a way as to interfere substantially with the states’ abilities to perform their responsibilities
The Constitutional Structure of American Federalism

Interstate Relationships

- Full Faith and Credit
- Interstate Privileges and Immunities
- Extradition
- Interstate Compacts
<table>
<thead>
<tr>
<th>Examples of Powers Delegated to the National Government</th>
<th>Examples of Powers Reserved for State Governments</th>
<th>Examples of Concurrent Powers Shared by the National and State Governments</th>
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<tbody>
<tr>
<td>Regulate trade and interstate commerce</td>
<td>Create local governments</td>
<td>Impose and collect taxes and fees</td>
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<td>Declare war</td>
<td>Police citizens</td>
<td>Borrow and spend money</td>
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<td>Create post offices</td>
<td>Oversee primary and elementary education</td>
<td>Establish courts</td>
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<td>Coin money</td>
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<td>Enact and enforce laws</td>
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<td>Conduct elections</td>
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<td>Protect health and welfare</td>
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Federalism and the Marshall Court

Sets new balance of state and national powers

- **McCulloch v. Maryland** (1819)
  - Concerns the power of states to tax the national government

- **Gibbons v. Ogden** (1824)
  - Concerns congressional power to regulate interstate commerce

- **Barron v. Baltimore** (1833)
  - Concerns the protections of the Bill of Rights – Does the Bill of Rights protect people from the actions of state government?
The National Courts and Federalism

The Great Debate

Centralists

• Abraham Lincoln, FDR
• Reject the idea that the Constitution is an interstate compact
• National government is the government of all the people

Decentralists

• Antifederalists, Thomas Jefferson, Ronald Reagan
• Constitution is a compact among sovereign states
• National government should not interfere with activities of the states
• Devolution revolution, states’ rights
The National Budget as a Tool of Federalism

• Supply state and local governments with revenue
• Establish minimum national standards
• Equalize resources among the states
• Attack national problems while minimizing the growth of federal agencies
The National Budget as a Tool of Federalism

Types of Federal Grants

• Three types of grants used
  – Categorical-formula
  – Project
  – Block

• The Politics of Federal Grants

• Unfunded Mandates
The Politics of Federalism

• Growth of the National Government
• Future of Federalism