

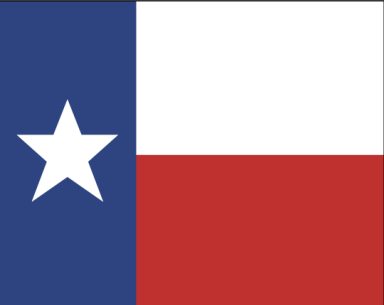
Chapter 3: Texas in the Federal System

Champagne & Harpham

State and Local Government

GOVT 2306

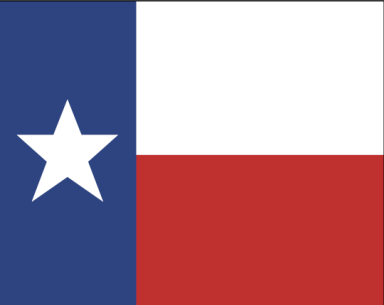
Professor Davis



Upcoming Exam Information

- Exam date: **Wednesday, February 1** during normal class hours
- You are required to provide your own scantron (available in the UTD Bookstore)
- Fill out your name and Student ID
- Fill out your class time
- Mark whether you have Form A or Form B

*For all of this information and more, please see the link on *Exam Information* located on the Course Homepage in eLearning.



Federalism

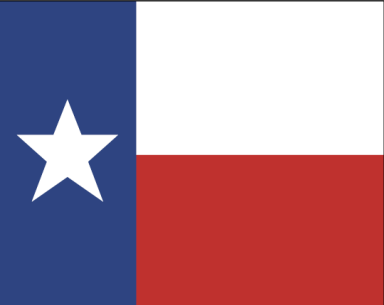
Federalism: A system of government in which power is divided between a central government and regional governments

Central – National Government

Regional – State Governments

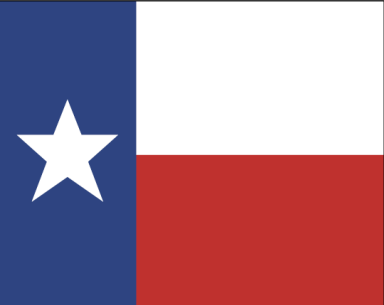
Examples of federalism conflicts:

States right to leave the Union, the regulation of business, implementation of federal reforms, responses to problems of poverty or abortion, etc.



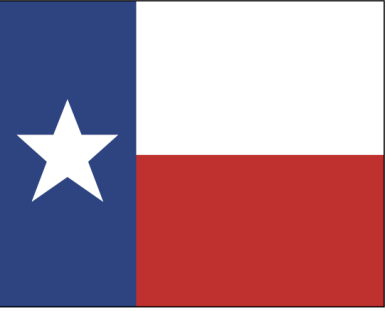
Federalism

- Regional AND National governments have the power to maintain order, make laws, spend money, and provide services
- Federalism organizes and coordinates the actions of smaller governments to achieve bigger, unified goals:
 1. Foster Commerce
 2. Ensure National Defense



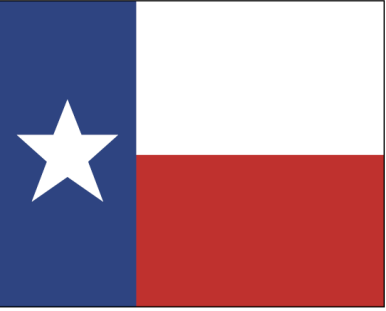
Protection of State Rights under US Constitution

- Equal representation in the US Senate –
represented by senators appointed by state
legislatures
– (changed with the 17th amendment)
- Power to tax
- Power to maintain a militia
- Power to regulate commerce within the states
- However, the national government has all these
powers too



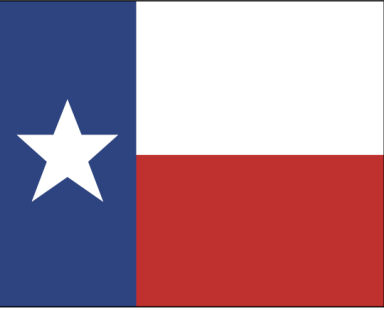
10th Amendment (States' Rights Amendment)

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



Federalism in Early America

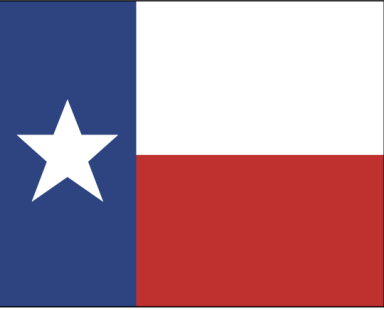
- Nullification Crisis (1833)
- McCulloch v. Maryland (1819)
- Gibbons v. Ogden (1824)
- Texas v. White (1869)



Eras of Federalism

1. **Dual Federalism** a system of government that prevailed in US from 1789 to 1937 in which the most fundamental governmental powers were strictly separated between federal and state governments

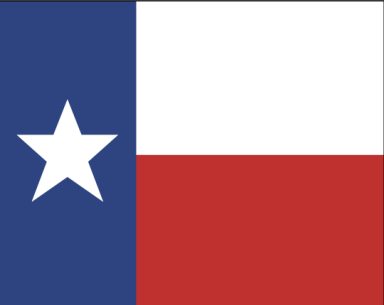
Layer Cake federalism a way of describing the system of dual federalism in which there is a division of responsibilities between the state and national government



Eras of Federalism

2. **Cooperative Federalism**: a type of federalism existing since the New Deal Era where grants-in-aid are used to encourage states and localities (without commanding them) to pursue nationally defined goals – a time of inter governmental cooperation

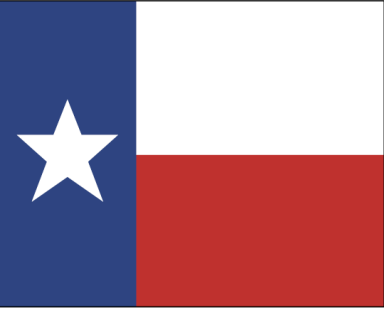
Marble Cake Federalism: a way of describing federalism where the boundaries between the national government and state government became blurred



Cooperative Federalism

Categorical Grants: congressionally appropriated grants to the states and localities on the condition that expenditures be limited to a problem or group specified by the law

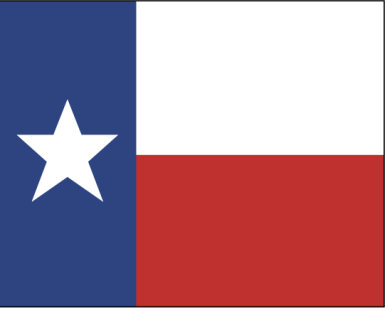
- Wickard v. Filburn (1942)



Eras of Federalism

3. **Creative Federalism** (not in your book): a system of federalism where, under Lyndon B. Johnson, the federal government work directly with states and localities and sometimes bypass the state governments to work with localities

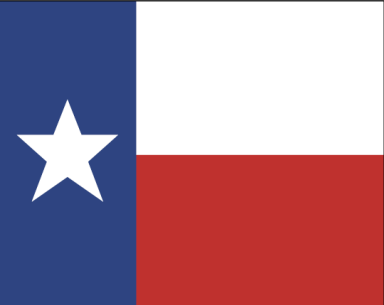
Ex. Great Society programs (welfare and unemployment insurance)



Eras of Federalism

4. **New Federalism**: eras of federalism where presidents (Nixon, Reagan, and Clinton) attempt to return power to the state by creating block grants

Block Grants: federal grants that allow states considerable discretion on how funds are spent



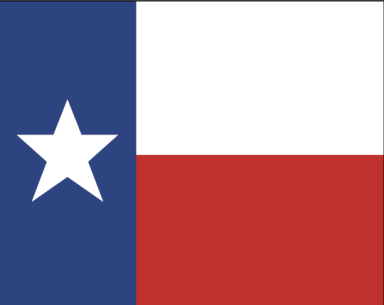
Coercive Federalism

Coercive Federalism: federal regulations or mandates force states to change policies to meet national goals

Ex. Loss of Medicaid funds over ACA

Unfunded Mandates: federal laws that require states or local governments to pay the costs of certain federal policy

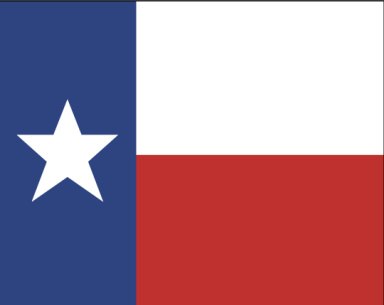
Ex. Americans with Disabilities Act



Coercive Federalism

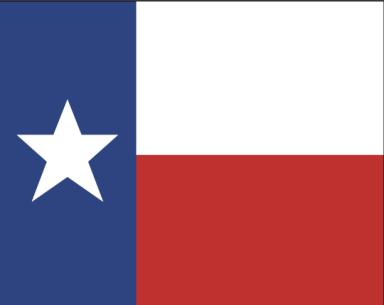
Federal Preemption

- **Federal Preemption**: National government imposes its priorities and prevents the states from acting in a particular field through the use of the Supremacy Clause
 - Oregon Death with Dignity Act
 - Arizona Proposition 200
 - National Voting Rights Act



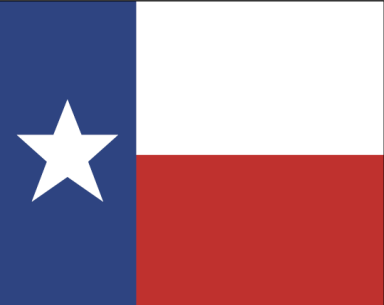
Impact of the Fourteenth and Fifteenth Amendments

- Fourteenth Amendment
 - All persons born and naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State where they reside
 - No state shall make or enforce any law which shall abridge the privileges or or immunities of citizens of the United States;
 - nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.



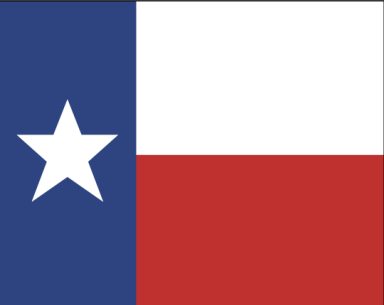
Incorporation of the U.S. Bill of Rights

- **Selective Incorporation**
 - Certain rights in the Bill of Rights that the Supreme Court believe are fundamental and are held to apply to states as well as the national government because they are a part of the liberty protected from state action
- Derived from the 14th amendment
- Sanford Dictum



The Equal Protection Clause

- “Nor deny to any person within its jurisdiction the equal protection of the laws.”
 - *Plessy v. Ferguson* (1896)
 - *Brown v. Board of Education* (1954)
 - *Sweatt v. Painter* (1950)
 - Intermediate Standard of Review
 - Regarding gender

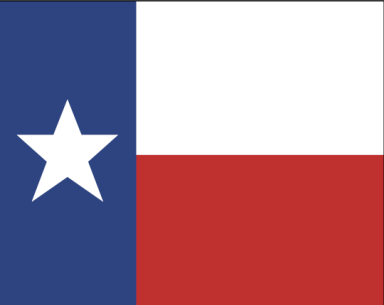


State Regulation of Voting

Separate but Equal and Sweatt v Painter (1950)

Rational Basis Test A lenient standard that judges use to determine the outcome of discrimination cases – it presumes that legal classification made by the government is constitutional; the government must only show some rational justification for a law (not used in race discrimination questions)

Proposition 2: Marriage is defined as between a man and woman



State Regulation of Voting

- Fifteenth Amendment – protecting the right to vote based on race
- Voting Rights Act of 1965
 - Preclearance
- *Shelby Co. v. Holder* (2013)
 - All states share equal sovereignty
 - Under the Tenth Amendment, states have the broad power to regulate elections



Lecture Slides

GOVERNING TEXAS

SECOND EDITION

ANTHONY CHAMPAGNE and EDWARD J. HARPHAM
Revised by Ronald Vardy