

# Federalism





**Meet the Candidates for 2020**

# Day 34

The Government Shutdown



## Jan. 3: The invitation



January 3, 2019

The President  
The White House  
1600 Pennsylvania Avenue, Northwest  
Washington, D.C. 20500

Dear Mr. President:

The Constitution established the legislative, executive and judicial branches as co-equal branches of government, to be a check and balance on each other. The Constitution also calls for the President to "from time to time give to the Congress Information of the State of the Union."

In the spirit of our Constitution, I invite you to deliver your State of the Union address before a Joint Session of Congress on Tuesday, January 29, 2019 in the House Chamber.

I look forward to welcoming you to the Congress.

Sincerely,

  
NANCY PELOSI  
Speaker of the House

## Jan. 16: The uninvitation



January 16, 2019

The President  
The White House  
1600 Pennsylvania Avenue, Northwest  
Washington, D.C. 20500

Dear Mr. President:

On January 3<sup>rd</sup>, it was my privilege as Speaker to invite you to deliver the State of the Union address on January 29<sup>th</sup>. The Constitution calls for the President to "from time to time give to the Congress Information of the State of the Union." During the 19<sup>th</sup> Century and up until the presidency of Woodrow Wilson, these annual State of the Union messages were delivered to Congress in writing. And since the start of modern budgeting in Fiscal Year 1977, a State of the Union address has never been delivered during a government shutdown.

In September 2018, Secretary Nielsen designated State of the Union Addresses as National Special Security Events (NSSEs), recognizing the need for "the full resources of the Federal Government to be brought to bear" to ensure the security of these events. The extraordinary demands presented by NSSEs require weeks of detailed planning with dozens of agencies working together to prepare for the safety of all participants.

The U.S. Secret Service was designated as the lead federal agency responsible for coordinating, planning, exercising, and implementing security for National Special Security Events by Public Law 106-544, December 19, 2000. However, both the U.S. Secret Service and the Department of Homeland Security have not been funded for 26 days now – with critical departments hamstrung by furloughs.

Sadly, given the security concerns and unless government re-opens this week, I suggest that we work together to determine another suitable date after government has re-opened for this address or for you to consider delivering your State of the Union address in writing to the Congress on January 29<sup>th</sup>.

## Jan. 17: The grounding



THE WHITE HOUSE  
WASHINGTON

January 17, 2019

The Honorable Nancy Pelosi  
Speaker of the  
House of Representatives  
Washington, D.C. 20515

Dear Madame Speaker:

Due to the Shutdown, I am sorry to inform you that your trip to Brussels, Egypt, and Afghanistan has been postponed. We will reschedule this seven-day excursion when the Shutdown is over. In light of the 800,000 great American workers not receiving pay, I am sure you would agree that postponing this public relations event is totally appropriate. I also feel that, during this period, it would be better if you were in Washington negotiating with me and joining the Strong Border Security movement to end the Shutdown. Obviously, if you would like to make your journey by flying commercial, that would certainly be your prerogative.

I look forward to seeing you soon and even more forward to watching our open and dangerous Southern Border finally receive the attention, funding, and security it so desperately deserves!



## Jan. 23: The reply



THE WHITE HOUSE  
WASHINGTON

January 23, 2019

The Honorable Nancy Pelosi  
Speaker of the House of Representatives  
Washington, D.C. 20515

Dear Madam Speaker:

Thank you for your letter of January 3, 2019, sent to me long after the Shutdown began, inviting me to address the Nation on January 29<sup>th</sup> as to the State of the Union. As you know, I had already accepted your kind invitation, however, I then received another letter from you dated January 16, 2019, wherein you expressed concerns regarding security during the State of the Union Address due to the Shutdown. Even prior to asking, I was contacted by the Department of Homeland Security and the United States Secret Service to explain that there would be absolutely no problem regarding security with respect to the event. They have since confirmed this publicly.

Accordingly, there are no security concerns regarding the State of the Union Address. Therefore, I will be honoring your invitation, and fulfilling my Constitutional duty, to deliver important information to the people and Congress of the United States of America regarding the State of our Union.

I look forward to seeing you on the evening on January 29<sup>th</sup> in the Chamber of the House of Representatives. It would be so very sad for our Country if the State of the Union were not delivered on time, on schedule, and very importantly, on location!

Sincerely,

# Jan. 23: The rejection



Nancy Pelosi  
Speaker of the House

January 23, 2019

The President  
The White House  
1600 Pennsylvania Avenue, Northwest  
Washington, D.C. 20500

Dear Mr. President:

When I extended an invitation on January 3<sup>rd</sup> for you to deliver the State of the Union address, it was on the mutually agreed upon date, January 29<sup>th</sup>. At that time, there was no thought that the government would still be shut down.

In my further correspondence of January 16<sup>th</sup>, I said we should work together to find a mutually agreeable date when government has re-opened and I hope that we can still do that.

I am writing to inform you that the House of Representatives will not consider a concurrent resolution authorizing the President's State of the Union address in the House Chamber until government has opened.

Again, I look forward to welcoming you to the House on a mutually agreeable date for this address when government has been opened.

Sincerely,

  
NANCY PELOSI  
Speaker of the House





**Donald J. Trump** 

@realDonaldTrump



As the Shutdown was going on, Nancy Pelosi asked me to give the State of the Union Address. I agreed. She then changed her mind because of the Shutdown, suggesting a later date. This is her prerogative - I will do the Address when the Shutdown is over. I am not looking for an....

♡ 68.4K 11:12 PM - Jan 23, 2019



💬 39.3K people are talking about this



**Finishing Up: Bill of Rights**

# **What is Federalism?**

# Definitional Concepts

- Federalism --- A political system with multiple levels of government in which each level has independent authority over some important policy areas
- Confederation --- A political system with multiple levels of government in which lower-level governments retain full sovereignty and cannot be compelled by the national government to act
- Unitary --- A political system in which the national government holds ultimate authority over all areas of policy and over the actions of the subunit governments

**“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.”**

**We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.**





## Dual Federalism

A political system in which each level of government -- national and state -- is sovereign in its own sphere of authority



## Cooperative Federalism

A political system in which both levels of government -- national and state -- are active in nearly all areas of policy and share sovereign authority



## Clear Limits

- **Article 1, Sec. 10** --- The states cannot coin money or negotiate treaties
- **Article 6, Clause 2** --- The Supremacy Clause
- **10th Amendment** --- reserving non-delegated powers to states
- **Article 1, Sec. 9** --- restrictions placed on federal power: no bills of attainder, ex post facto laws

## Ambiguities

- **Article 1, Sec. 8** --- Elastic/Necessary and Proper Clause
- **Article 6, Sec. 8** --- The Commerce Clause

## **Gibbons vs. Ogden**

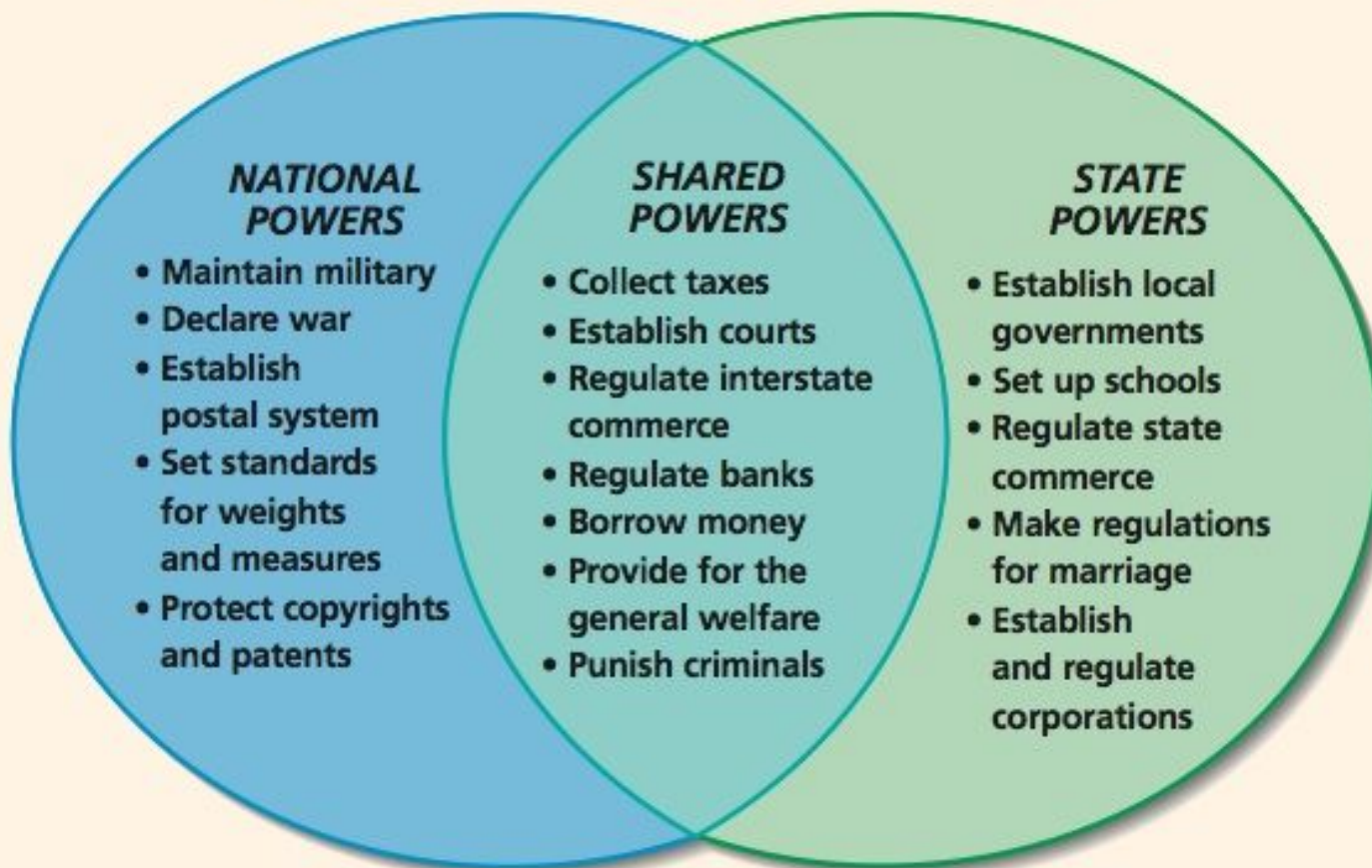
- A New York state law gave Robert R. Livingston and Robert Fulton a 20-year monopoly over navigation on waters within state jurisdiction.
- Gibbons operated another steamboat on a New York route belonging to Ogden
- Does the Commerce Clause give Congress authority over interstate navigation?

## **McCulloch v. Maryland**

- In 1816, Congress chartered The Second Bank of the United States. In 1818, the state of Maryland passed legislation to impose taxes on the bank.
- Did Congress have the authority to establish the bank?
- Did the Maryland law unconstitutionally interfere with congressional powers?



**Americans live under both  
national and state governments.**



**What's the deal with  
Common Core?**



# Assessing Common Core

- What is it?
- Can the federal government get involved with state or local-level education?
- In regards to Common Core, is the government overstepping under federalism?

# Federal Financing

- **Grants-in-aid** --- Money that is distributed to lower-level governments with the purpose of funding special projects
- **Categorical grants** --- Grants that narrowly define how the funds are to be spent. These grants normally come with conditions that need to be satisfied in order for the money to be used
- **Revenue sharing** --- A principal whereby the national government and the lower-level governments cooperate in funding a project
- **Block Grants** --- Sums of money transferred to lower-level governments such that, as long as the general purpose of the grant is met, the lower-level governments are allowed considerable freedom in deciding how the money is spent

**The States are in open  
rebellion.**



# A Timeline of Events

- **1990** --- Five states and D.C. pass medical marijuana laws
  - 16% of Americans feel that marijuana should be legal
- **2000s** --- Medical marijuana is legal in eight states
  - About 30% of Americans feel that marijuana should be legal
- **2012** --- Colorado votes to legalize recreational marijuana
  - 50% of Americans feel that marijuana should be legal
- **2014** --- Oregon, Washington D.C., and Alaska vote to legalize recreational marijuana
  - 55% of Americans feel that marijuana should be legal
- **2016** --- Massachusetts, Nevada, and California vote to legalize recreational marijuana
  - 62% of Americans feel that marijuana should be legal

# State Government Institutions

- **Ballot Initiatives** --- An election in which citizens vote directly on a proposition raised by a group of fellow citizens
  - Example: Massachusetts
- **Referendum** --- An election in which citizens vote directly on whether to overturn a bill or a constitutional amendment that has been passed by the legislature
  - Example: California



In October 2009 and June 2011, the Department issued guidance to federal prosecutors concerning marijuana enforcement under the Controlled Substances Act (CSA). This memorandum updates that guidance in light of state ballot initiatives that legalize under state law the possession of small amounts of marijuana and provide for the regulation of marijuana production, processing, and sale. The guidance set forth herein applies to all federal enforcement activity, including civil enforcement and criminal investigations and prosecutions, concerning marijuana in all states.

As the Department noted in its previous guidance, Congress has determined that marijuana is a dangerous drug and that the illegal distribution and sale of marijuana is a serious crime that provides a significant source of revenue to large-scale criminal enterprises, gangs, and cartels. The Department of Justice is committed to enforcement of the CSA consistent with those determinations. The Department is also committed to using its limited investigative and prosecutorial resources to address the most significant threats in the most effective, consistent, and rational way. In furtherance of those objectives, as several states enacted laws relating to the use of marijuana for medical purposes, the Department in recent years has focused its efforts on certain enforcement priorities that are particularly important to the federal government:

- Preventing the distribution of marijuana to minors;
- Preventing revenue from the sale of marijuana from going to criminal enterprises, gangs, and cartels;
- Preventing the diversion of marijuana from states where it is legal under state law in some form to other states;
- Preventing state-authorized marijuana activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity;

**Is this an assault on  
federalism?**