

# The Constitution and Federalism

## Cleanup and Experiments

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# The Constitution

# Checks and Balances



# Federalism

# Federalism

## Experiments Everywhere

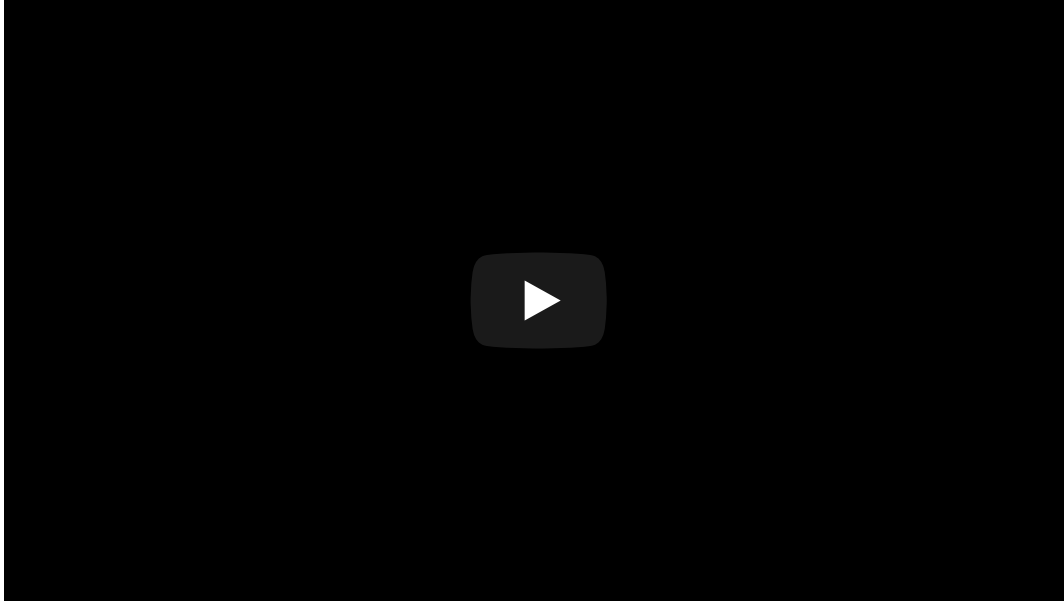








# What is it?





# Federalism and Beer

- CALIFORNIA: Homebrewers cannot exceed 100 gallons of beer
- UTAH: Beer >5% ABV can only be sold in state stores.
- ALABAMA: Beer stronger than 13.9% ABV is not permitted.
- FLORIDA: No bottles larger than 32 ounces.
- GEORGIA: 14% ABV cap on beer.
- INDIANA: Prohibits the sale of cold beer
- KENTUCKY: Malt beverages may be sold at any establishment with a liquor license. Wine and liquor may only be sold in liquor stores, which require an independent entrance.
- OKLAHOMA: Beer stronger than 4% ABV can only be sold at room temperature.
- KANSAS: Many counties require restaurants to earn at least 30% of profits from food - in order to sell alcohol
- NEW YORK: Beer and liquor cannot be sold at the same store.



# Who Governs

- 87,576 governments within the United States Federal System
  - 1 National Government
  - 50 State Governments
  - 3,034 County Governments
  - 19,429 Municipalities
  - 16,504 Townships
  - 13,506 School Districts
  - 35,052 Special Districts





# Federalism

is a principle of government that means authority is partly divided and partly shared between the federal (aka “central” or “national”) government and the state governments



# How is it Different

## Federalism

- A system of power in which power is divided, by a Constitution, between local, state, and federal governments
- promotes individual attention

## Alternatives

- **Unitary System**: A centralized government system in which lower levels have little power or autonomy from central government
- **Confederacy**: Authority is held by individual states, and powers are delegated to the central government sparingly



# Benefits and Weaknesses

## Greater National Authority

Preserves the union

Reduces compliance costs

Provides national public goods & reduce negative externalities

Protects minority rights

Prevents races to the bottom

## Greater State Authority

Protects liberty

Represents local diversity

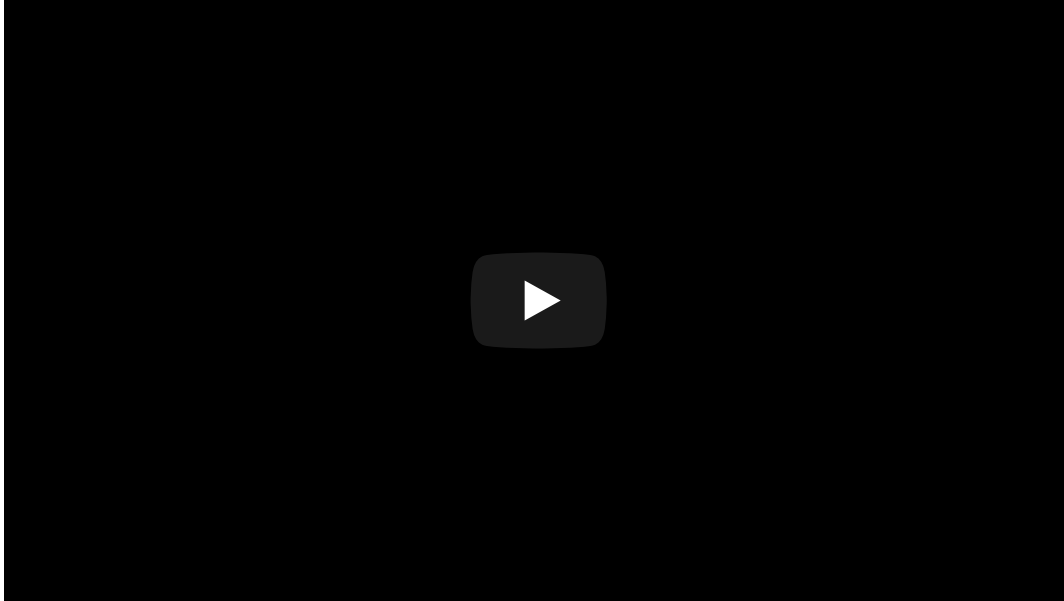
Allows for policy experimentation

Benefits from foot voting

Fosters democratic citizenship



# Races to the Bottom







# Who Has Authority Over What?

Regulate the Post Office      Collect Taxes  
regulate commerce      issue licenses      Establish Treaties  
Establish Army and Navy      coin or print money      Borrow Money  
Declare War      Build highways      conduct elections  
Establish EMS



# State Powers

- Regulating economic activities with no relation to, or affect on, commerce outside the states
- Creating public schools
- Family Law
- Regulating and facilitating elections
- Issuing Licenses for hunting, driving, operating businesses
- Traffic Regulations
- Designing and staffing state court system
- Promoting health, safety, welfare, and morality through powers not delegated to the federal government



# Federal Powers

- Taxing imports and exports
- Diplomacy and treaty making
- declaring and fighting wars
- Recruiting and equipping the armed forces
- Regulating interstate commerce
- Coining money
- Making and enforcing immigration laws
- issuing patents and copyrights
- designing and staffing the federal court systems



# Concurrent Authority

- Taxing, income, goods, services, and land
- using the power of the purse to promote the general welfare
- borrowing money
- establishing banks
- building roads
- regulation of economic activities within a state that have a relation to, or affect on, commerce among two or more states





# What about The Supremacy Clause?

“This Constitution, and the Laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding”



# Two Supreme Court Constitutional Doctrines Essential to American Federalism

## Other Than the 10th Amendment

- Dillon's Rule
- Police Power



# The Evolution of Federalism





# What Drives Changes in Power Between the Federal and State Governments

- Crises (Civil War, Great Depression, 9/11)
- Technology
- Politics
- The Supreme Court





# Dual Federalism

- "Layer Cake" Federalism
- Two systems working independently from one another
- The system of government that dominated the US for the first 150 years in which the powers were shared equally between the two levels of government, state and federal



# McCullough v. Maryland (1819)

- Dual Federalism and the dominance of the federal government

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- Dual Federalism and the dominance of the federal government
- SUPREMACY CLAUSE meets the NECESSARY AND PROPER CLAUSE



# Gibbons v Ogden

- **Commerce Clause:** Congress has the right to regulate interstate commerce between states
- **Supreme Court decision:** The Federal government has the power to regulate steamboat permits under the Commerce Clause:



# Cooperative Federalism

- "Marble Cake Federalism"
- Expansion of the Federal Government
- Blurs the lines between national and state authority
- Started in the 1930's during the Great Depression
- West Coast Hotel Co. v. Parrish.
  - "Switch in Time that Saved Nine"
- Substantial Effects Doctrine: Commerce Clause lets Congress regulate any economic activity that has a substantial effect on interstate commerce.





# Federalism and Funding

- **Grants in Aid:** money or land provided to state or local governments conditional on meeting federal requirements
- **Categorical grants:** a type of federal grant-in-aid that provides relatively strict and specific guidelines on how the state or local government receiving the money must spend it.
- **Block Grants:** A block grant is a federal grant-in-aid that provides states and/or local governments with significant freedom to decide how to spend the money.
- **Unfunded mandates:** Federal regulatory or spending requirements placed on states that states need to pay for with their own funds



# Federalism in Recent Years

- Gonzales v. Raich (2005)
  - Weed Island and the Legalization Battle

