

The Constitution and Federalism

Cleanup and Experiments

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The Constitution

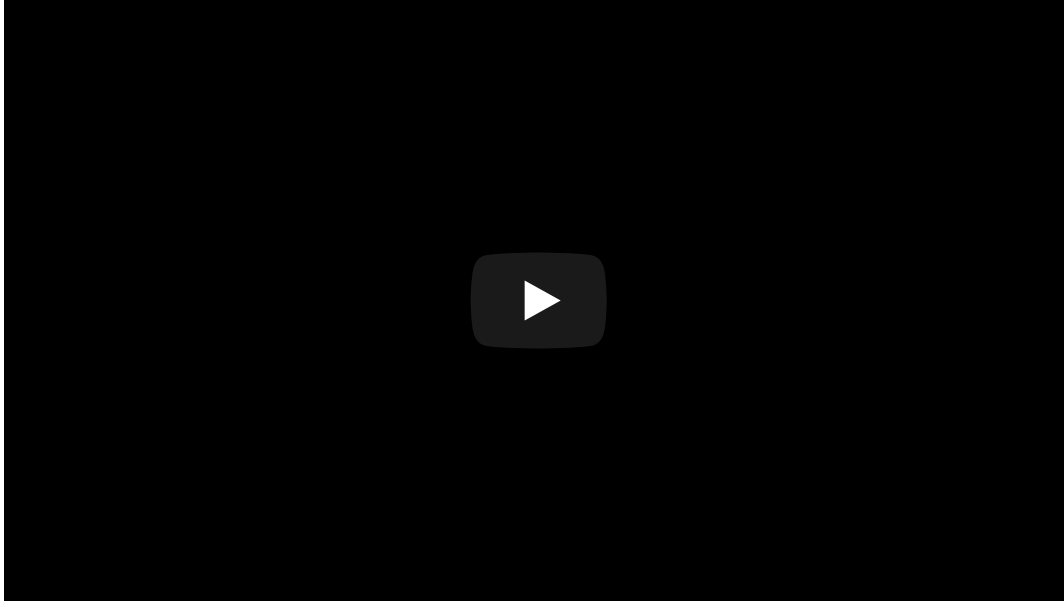
Checks and Balances

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

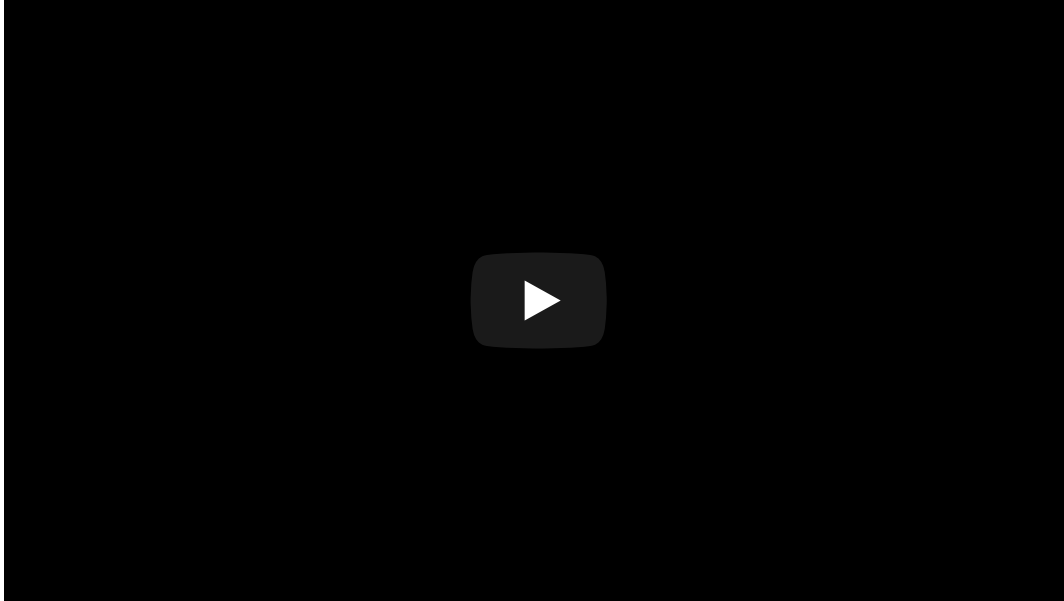
Represents local diversity

Allows for policy experimentation

Benefits from foot voting

Fosters democratic citizenship

Races to the Bottom



Who Has Authority Over What?

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

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
- 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"

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

