


**A.P. GOVERNMENT**

**Unit 1**  
Foundation of American Government

**FEDERALISM**

Mr. Ahlberg


**Notes #7**



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### What is Federalism?



- Federalism – Two or more governments exercise power and authority over the same people in the same territory
- OR... the division of government powers between the Federal government (National) and the State governments (Local)



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### Disaster Relief

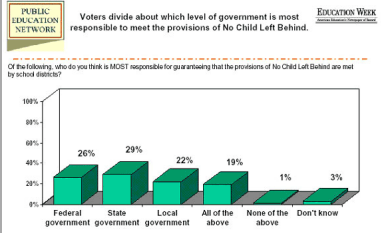
- Who's responsibility is it to clean up after Hurricane Sandy hit the East Coast? Who should pay?


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### No Child Left Behind

- Should the Federal Government step in and regulate a state's school performance?




Level of Government	Percentage
Federal government	26%
State government	29%
Local government	22%
All of the above	19%
None of the above	1%
Don't know	3%



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### 2 Types of Federalism

- Dual Federalism
  - Federal and state governments remain dominant in their separate spheres of influence
  - Gibbons v. Ogden proved life is not that simple
- Cooperative Federalism
  - State and Federal governments work together to solve complex problems

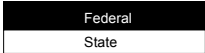


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### 2 Federalisms


TWO METAPHORS...

- Dual Federalism – Layer Cake




- Cooperative Federalism – Marble Cake






## Fiscal Federalism

- Fiscal means \$
- Q – How do you get the states to do things they normally wouldn't do?
- A – Money
- Q – What is the answer to any question ever asked?
- A – Money




## Grants-in-Aid

- Money paid from one level of government to another to be spent for a specific purpose
- Categorical Grants - target specific purposes and "strings attached."
  - States receive Federal Highway dollar if
    - Raises drinking age to 21
    - Lowers legal BAC limit to .08
- Block Grants – given for broad purposes and allow discretion on how money is spent
  - Ex. Welfare reform
  - Ex. Health Care




## Mandates

- Congress passes a law that affects everyone in the U.S.
- States are required to follow the provisions of this law
- Often times the states or local gov' ts have to pay the bill of the mandate themselves
- Most mandates apply to Civil Rights and the Environment




## Mandates

- Asbestos Emergency Response Act
- Handicapped Children's Protection Act
- Drug-free Workplace Acts
- Ocean Dumping Ban Act
- Clean Air Act
- EXAMPLES:
  - Columbus, OH spends 23% of the city budget trying to meet environmental mandates (including testing for pesticides used on rice and pineapple)
  - Public schools have to use Internet filtering or schools lose e-rate subsidies



## Two Supreme Court Cases to Illustrate Federalism


- McCulloch v. Maryland (1819)
  - Conflict between State and Federal Banks
- Gibbons v. Ogden (1824)
  - Had to do with the issuance of shipping licenses



## McCulloch v. Maryland (1819)


### Background

- Federal Bank of the U.S. opened up in Maryland
- Maryland saw this as direct competition to its state banks.
- Maryland taxed the Bank of the U.S. in an effort to put it out of business
- McCulloch, a Bank of the U.S. employee, refused to pay the state tax



## Results


- McCulloch v. Maryland
  - Supreme court ruled that the Federal government could operate a bank in Maryland
  - Also ruled that a state does not have the authority to tax a federal institution.



## Gibbons v. Ogden (1824)


Background:

- Ogden received a “exclusive” state license to run a ferry across the Hudson River
- Gibbons saw the potential of the traffic between NJ and NY and obtained a federal license.
- Ogden sued saying he had the valid state license, even though Gibbons had US license




## Results

- Gibbons v. Ogden
  - Supreme court ruled in favor of Gibbons and his Federal license interpreting it as superior to a state license.




## United States v. Lopez (1995)

- Congress passed the “Gun Free School Zone” law
  - banned possession of a firearm within 1000 feet of a school
  - Used the Necessary and Proper Clause to stretch the Commerce clause
- Lopez (12 grader) brought a gun and bullets to school and was charged and put on Federal Trial
  - Argued that Congress did not have the power to regulate guns in school.
  - District Court ruled against Lopez-Sentenced
  - Circuit Court of Appeals reversed the decision
  - Appealed to the Supreme Court




## U.S. v. Lopez

- Supreme Court Declared the Federal law unconstitutional
  - “nothing to do with commerce”
  - carrying a weapon through a school zone is too much of a stretch for “commerce” clause
- This case put Limits on the power of the National Government



## Gonzalez v. Raich (2005)

- Congress passed the Controlled Substance Act (1970)
  - Allowed the US gov’ t to regulate the manufacture, importation, possession, and distribution of certain drugs
- The use and sale of medicinal marijuana was legalized in California, but still illegal in the US
- Angel Raich was arrested for growing and using marijuana.
- Raich argued commerce clause should not take effect because
  - 1) there was no business transactions and
  - 2) there were no state border issues.




### Gonzales v. Raich

- Supreme Court ruled 6-3 against Raich saying that the federal government could trump state laws that permitted medicinal marijuana



### Advantages of Federalism

- Built on compromise, promotes unity
  - States retain some rights and say on policy
- GOV' T duties can be split up among levels
- Brings GOV' T closer to people by giving more opportunities for participation
- Allows for state GOV' T to address unique issues in unique in creative ways
- Allows states to experiment with policy before enacting it at the federal level
  - Ex. Vermont' s free health care for children



### Disadvantages of Federalism

- Can lead to duplication of GOV' T
- States can impede progress of Nation
- States are unequal in resources available
- States have different policies and can create confusion
- Easier for states to be dominated and corrupted by interest groups