

## ▣ **Define Federalism and Explain its Significance**

▣ Federalism: division of sovereign power across local, state, national govs

▣ Sovereign power, national and state government each have degrees of authority and autonomy

## ▣ **Levels of Government and Their Degrees of Autonomy**

▣ Police Powers: Powers to enforce laws and provide for public safety

▣ Concurrent Powers: Responsibilities for particular policy areas (ex: transportation) shared by multiple levels of government

▣ National Government Powers: print money, regulate interstate commerce and international trade, make treaties and conduct foreign policy, post offices, necessary and proper laws

▣ State Government Powers: issue licenses, regulate intrastate businesses, conduct elections, establish local governments, ratify amendments, promote public health and safety, exert powers not delegated to national government and not prohibited to states

▣ Concurrent Powers: collect taxes, build roads, borrow money, establish courts, make and enforce laws, charter banks and corps, spend money for the general welfare (imminent domain)

▣ Powers Denied to the National Gov: Cannot violate Bill of Rights, may not impose export taxes among states, must appropriate money from Treasury, cannot change state boundaries

▣ Powers Denied to State Governments: No foreign policy, no printing money, no leveling tariffs, no interference of contracts, must adhere to due process

## ▣ **A Comparative Perspective**

▣ Unitary Gov: system in which national centralized gov holds ultimate authority (most common in world) even with states (Promotes strong national identity)

▣ Confederal Gov: form of gov in which states hold power over limited national gov (Promotes regional and ethnic separation)

▣ Intergovernmental Organizations: Orgs that seek to coordinate policy across member nations (UN, NATO, IMF)

## ▣ **Balancing National and State Power in the Constitution**

## ▣ **A Strong National Government**

- Founders desired a national government that provided security and a healthy, efficient economy
- Congress granted power to raise armies, declare war, suppress insurrections and repel invasions while President would serve as commander in chief of the armed forces
- Congress had power to regulate interstate commerce to centralize economic power at national level while States were banned from printing money or having any sort of foreign diplomacy
- Necessary and Proper Clause (Art 1 Sec 8) and National Supremacy Clause (Article 6)
- **State Powers and Limits on National Power**
- Article 2 lets states choose electors for electoral college
- Article 5 grants states central role in amendment (3/4 of states must ratify any amendment and states can bypass Congress if 2/3 call for convention)
- Congress must regulate interstate commerce evenly across all states
- 10<sup>th</sup> Amendment states all powers not delegated to the US or prohibited to states are reserved to the states
- 11<sup>th</sup> Amendment, states cannot be sued by people in another state or country
- **Clauses that Favor Both Perspectives**
- Full Faith and Credit Clause: Article 4 requires each state's laws be honored by other states
- Privileges and Immunities Clause: Article 4 requires states must treat nonstate residents in their borders as they would treat their own residents
- States don't allow nonresidents to vote, or charge out of state tuition, but National citizenship is over State citizenship
- **The Evolving Concept of Federalism**
- **The Early Years**
- **Establishing National Supremacy**
- National Bank in 1791 and again in 1816
- Maryland tried to tax the bank, and in *McCulloch v. Maryland* (1819) the Court ruled in favor that the national government could create the bank and Maryland could not tax it due to an implied power

- *Gibbons v. Ogden* (1824) struck down a New York law granting a monopoly to a steamboat company that was “interfering with interstate commerce”
- **Tension over the Sedition Act**
- Sedition Act of 1798 banned “any false, scandalous writing against the government of the United States”
- Doctrine of Interposition: idea that if a nat gov passes an unconstitutional law, the state legislatures can declare the law void (basis for succession)
- States’ Rights: idea that states are entitled to a certain amount of self-government, free of fed gov intervention
- **Dual Federalism**
- **The Marshall Court Versus the Taney Court**
- Marshall was a Federalist, Taney was a supporter of states’ rights
- Dual Federalism: form of federalism favored by Chief Justice Roger Taney in which nat and state gov are seen as distinct entities providing separate services to limit the nat gov
- *Barron v. Baltimore* (1833) held that a man whose wharf in the Baltimore harbor had been ruined by the city couldn’t sue for eminent domain because it only applied to nat gov
- **Dred Scott and Civil War**
- *Dred Scott v. Sandford* (1857) Dred Scott was a slave who lived in free Wisconsin Territory for many years but was in Missouri when his master died. The majority decision held that slaves were not citizens but private property and so the Missouri Compromise violated the 5<sup>th</sup> Amendment of not adhere to due process triggering the civil war 4 years later
- 13<sup>th</sup> Amendment banned slavery
- 14<sup>th</sup> prohibited states from denying citizens due process or equal protection
- 15<sup>th</sup> gave newly freed slaves the right to vote
- **The Supreme Court and Limited National Government**
- Supreme Court overturned 1875 Civil Rights Act saying the Bill of Rights and 14<sup>th</sup> Amendment only applied to States, and States were free to do as they please (lead to Jim Crow Laws)
- Commerce Clause Powers: powers of Congress to regulate the economy granted in Art 1 Sec 8