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Federalism: fact that we have 2 levels of gov't (nat'l + state)
both with significant policy making powers

How was federalism established in the US (Constitution?)

(powers of nat'l gov't)

A) Delegated powers - expressed, implied, inherent

B) reserved powers - 10th amendment

C) Article 4 - interstate relations -> foster cooperation

among the states

1) full faith and credit - each state must respect the laws, public records, + court decisions of every other state

2) Privileges and immunities of citizens - states cannot discriminate against citizens from other states (ex. welfare payments)

3) Extradition - states required to return fugitive to state from which he fled

4) Guarantees to the states:

A) Republican form of government

B) Protection against invasion

C) Protection against domestic violence

D) Respect for territorial integrity

- Supremacy Clause

- a ladder of laws

- Necessary and Proper Clause (Elastic clause)

- must be linked to an expressed power

- McCulloch vs Maryland - National Bank

- Elastic Clause

- Supremacy Clause

- Gibbons vs Ogden

(Steam Boat Gibbons vs Ogden (New York Lic))

- Commerce clause

- elastic clause necessary and proper clause

- Supremacy clause

19/21

Implied Power \leftrightarrow tied to \rightarrow

(Expressed Power)

MIN Wage | MAX HOURS

\rightarrow regulating Interstate Commerce

Art I Sec. 8, Clause 18

"Necessary and proper Clause"

National Bank

\rightarrow TAX, COIN, Borrow Money

U.S. Airforce

\rightarrow maintaining a standard Army/Navy

Issues Licenses to operate steamboats

\rightarrow regulating Interstate Commerce

Implied Power tied to Expressed Power

10/21

Dual Federalism — no overlap Fed & State Policies Separated.

How has federalism in the U.S. changed?

From dual to cooperative federalism.

① financial resources of the national government are necessary to bring about social/economic change

A) Great Depression — ^{Congress uses} commerce power — to make policy
- min wage / max hour laws
- collective bargaining rights (right to form Unions)

B) Civil Rights Act 1964
- ends discrimination by private individuals or businesses engaged in inter-state commerce.

② Fiscal Federalism — "Carrot and Stick policy"

A. Speed Limits, Alcohol DUI

B. Shared administration

C. Categorical vs Block grants

Civil Rights
12/19
1964
Heart of Atlanta Motel — patrons are from out of state. Interstate Commerce

Ollie BBR — gets food to cook from out of state — Congress says then he is involved in interstate commerce.

How Federalism in the US. Has Changed
from dual to cooperative federalism

① Financial Resources of National Government are necessary to bring about change.

① Great Depression - commerce power
min/max wages max hour laws
collective bargaining rights (right to form Union)

② Civil Rights Act 1964

ends discrimination by private individuals or businesses engaged in interstate commerce

③ Fiscal Federalism "Carrot and Stick" policy

A) speed limits, Alcohol DUI (no money if not followed)

B) Shared Administration (United/Universal Health Care)

C) Categorical Vs. Block Grants

Specific purposes

80 to 90%

Broad/General Purposes.

How has U.S. Federalism changed recently

① Recent court decisions limiting power of National Government

① U.S. vs Lopez 1995 Gun Free School Zone

② U.S. vs Morrison 2000 Violence Against Women Act

10th Amendment

3) National Federation of Independent Businesses
vs. Sebelius 2012]

Obama's Affordable Care Act
individual mandate exceeded Congress's
commerce power, but mandate is considered
a tax, not a penalty - thus within Congress
power to tax for "the General Welfare"

(B)

While the Court may limit Congressional
Commerce regulatory power, fiscal
federalism still empowers the national
Government to influence local policy

- 1.) Education - NCLB no child left behind
- 2.) Anti-discrimination clauses tied to grants
- 3.) Congress's taxing power used to promote the
general Welfare - Obamacare