

# Federalism Timeline

Constitution: Art. 1, Section 8 establishes  
enumerated powers of Congress, but allows  
for ...

implied powers through necessary and  
proper clause

# The Tenth Amendment:

- The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.



# Events of John Adams Presidency

- Congress then passed the Alien Act:  
This authorized the President to deport aliens "dangerous to the peace and safety of the United States" during peacetime.
- Later the Sedition Act declared:  
that any treasonable activity, including the publication of "any false, scandalous and malicious writing," was a high misdemeanor, punishable by fine and imprisonment.
- 25 men, most of them editors of Republican newspapers, were arrested and their newspapers forced to shut down.

# 1799 KY & VA Resolutions in response to the Sedition Acts:

- The resolutions declared that the Constitution merely established a compact between the states and that the federal government had no right to exercise powers not specifically delegated to it.
- It was the right of the states and not the federal government to decide as to the constitutionality of such acts. A further resolution, adopted in Feb., 1799, provided a means by which the states could enforce their decisions by formal nullification of the objectionable laws.



# 1819 *McCulloch v. Maryland*

- Facts:

In 1816, Congress chartered The Second Bank of the United States. In 1818, Maryland passed legislation to impose taxes on the bank. The cashier of the bank, James W. McCulloch, refused to pay the tax.

- 2 Questions the Supreme Court considered:

- 1) Did Congress have the authority to establish the bank?

- 2) Did the Maryland law unconstitutionally interfere with congressional powers?

# 1819 *McCulloch v. Maryland*

- In a unanimous decision, the Court held that Congress had the power to incorporate the bank and that Maryland could not tax instruments of the national government employed in the execution of constitutional powers.
- Chief Justice Marshall noted that Congress possessed unenumerated powers not explicitly outlined in the Constitution



# 1824 *Gibbons v. Ogden*

- **Facts of the Case**
- A New York state law gave two individuals the exclusive right to operate steamboats on waters within state jurisdiction.
- **Question**
- Did the State of New York exercise authority in a realm reserved exclusively to Congress, namely, the regulation of interstate commerce?

# 1824 *Gibbons v. Ogden*

- The New York law was invalid by virtue of the Supremacy Clause.
- In his opinion, Chief Justice Marshall: developed a clear definition of the word commerce, which included navigation on interstate waterways.
- Marshall's was one of the earliest and most influential opinions concerning this important clause.
- He concluded that regulation of navigation by steamboat operators and others for purposes of conducting interstate commerce was a power reserved to and exercised by the Congress.



# 1828 The Nullification campaign led by Vice-President John Calhoun

- In response to the high tariff passed by Congress, Calhoun stated:
- that the Union was a compact between states, which retained certain rights under the Constitution.
- Calhoun carried the argument several steps further, asserting that a state could veto, or "nullify," any act by the federal government that encroached on its sovereignty or otherwise violated the Constitution.

# 1833 *Barron v. Baltimore*

## Facts of the Case

- John Barron was co-owner of a profitable wharf in the harbor of Baltimore.
- As the city developed and expanded, large amounts of sand accumulated in the harbor, depriving Barron of the deep waters which had been the key to his successful business.
- He sued the city to recover a portion of his financial losses.



# 1833 *Barron v. Baltimore*

- **Question:**
- Does the Fifth Amendment deny the states as well as the national government the right to take private property for public use without justly compensating the property's owner?
- **Decision:**
- No. Writing for the unanimous Court, Chief Justice Marshall found that the limitations on government articulated in the Fifth Amendment were specifically intended to limit the powers of the national government.

# 1861-1865 Civil War

- The U.S. victory over the Confederacy settles the question:  
States cannot declare laws passed by Congress unconstitutional.
- The 14th Amendment is added to the Constitution:  
“...No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the US, nor shall any state deprive any person of life, liberty or property without due process of law”



# Dual Federalism

- The concept that the national and state governments were supreme within their respective jurisdiction. (The marble cake metaphor). This concept was discarded after the 1920s

# Sixteenth Amendment

- The Constitution was amended in 1913 to allow the national government to levy an income tax.
- The size and power of the federal government begins its undiminished upward growth from this point.



# 1925 Gitlow v. New York

- The United States Supreme Court ruled that the Fourteenth Amendment to the U.S. Constitution had extended the reach of certain provisions of the First Amendment, specifically the provisions protecting freedom of speech and freedom of the press, to the governments of the individual states.

# The New Deal (1930s)

- The federal government intervened in the economy as never before, following the Keynesian economic theory that the government can use its fiscal and monetary policy to increase aggregate demand. Once the Great Depression was over, the national government continued to use these methods



# 1946 Employment Act

- This law created *the Council of Economic Advisors* to the president, but more importantly, the law declared for the first time that it is the federal government's responsibility to promote high employment, production and purchasing power.

# National Defense & Education Act (1958)

- (NDEA), federal legislation passed in 1958 providing aid to education in the United States at all levels, public and private. NDEA was instituted primarily to stimulate the advancement of education in science, mathematics, and modern foreign languages; but it has also provided aid in other areas



# 1965 Elementary & Secondary Education Act

- This piece of legislation constituted the most important educational component of the 'War on Poverty' launched by President Lyndon B. Johnson. Through a special funding (Title I), it allocated large resources to meet the needs of educationally deprived children, especially through compensatory programs for the poor.

# 1965 Medicare Act

- It established Medicare, a health insurance program for the elderly, and Medicaid, a health insurance program for the poor.
- It was funded by a tax on the earnings of employees, matched by contributions by employers, and was well received.



# Mapp v. Ohio (1961)

- The Court declared that "all evidence obtained by searches and seizures in violation of the Constitution is inadmissible in a state court." Mapp had been convicted on the basis of illegally obtained evidence. This was historic. It placed the requirement of excluding illegally obtained evidence from court at all levels of the government.

# Gideon v. Wainwright (1963)

- The Court held that Gideon had a right to be represented by a court-appointed attorney. In this case the Court found that the Sixth Amendment's guarantee of counsel was a fundamental right, essential to a fair trial, which should be made applicable to the states through the Due Process Clause of the Fourteenth Amendment.



# Escobedo v. Illinois (1965)

- Justice Goldberg, in his majority opinion, spoke for the first time of "an absolute right to remain silent." Escobedo had not been adequately informed of his constitutional right to remain silent rather than to be forced to incriminate himself.
- Gideon established the right to an attorney, Escobedo established that the right begins at the time of custodial interrogation

# Miranda v. Arizona (1966)

- Due to the coercive nature of custodial interrogation by police no confession could be admissible under the Fifth Amendment self-incrimination clause and Sixth Amendment right to an attorney unless a suspect had been made aware of his rights and the suspect had then waived them. Thus, Miranda's conviction was overturned.



# Nixon's New Federalism

- Introduced “Revenue Sharing:  
No strings attached  
Only rule: 1/3 money goes to state  
govt, 2/3 goes to local gov'ts
- Introduced tougher laws on drug  
dealers and
- Nominated “law and order” judges to  
the federal bench.

# Major Federal Environmental Laws

- 1963 Clean Air Act
- 1964 Wilderness Act
- 1965 Water Quality Act
- 1968 Wild and Scenic Rivers Act
- 1969 Endangered Species Conservation Act
- 1972 Marine Mammal Protection Act, Federal Environmental Pesticide Control Act
- 1974 Safe Drinking Water Act
- 1980 Act that created “Superfund” clean up fund
- 1990 Clean Air Act Amendments



# Reagan's New Federalism

- Reagan proposed that the Federal Govt fully fund Medicare
- In exchange, he proposed states fund 14 welfare programs (including AFDC and the Food Stamps programs)
- Federal Govt would help states with the funding for these programs until 1984
- States would then have to pay for these
- The plan never got out of Congress.

# ***Garcia v. San Antonio Metro***

- (SAMTA), the main provider of transportation in the San Antonio metropolitan area, claimed it was exempt from the minimum-wage and overtime requirements of the Fair Labor Standards Act.
- SAMTA argued that it was providing a "traditional" governmental function, which exempted it from federal controls



# ***Garcia v. San Antonio Metro***

- **Question** - Did principles of federalism make the San Antonio Metropolitan Transit Authority immune from the Fair Labor Standards Act?
- **Conclusion**
- In a 5-to-4 decision, the Court held that the guiding principles of federalism established in *National League of Cities v. Usery* were unworkable and that SAMTA was subject to Congressional legislation under the Commerce Clause.

# 1994 *Contract With America*

- its provisions represented the view of many conservative Republicans on the issues of shrinking the size of government, promoting lower taxes and greater entrepreneurial activity, including:
- **The Fiscal Responsibility Act** - An amendment to the Constitution that would require a balanced budget.
- **The Personal Responsibility Act** - An act to cut spending for welfare programs by means of discouraging illegitimacy and teen pregnancy.



# US v Lopez

- **Facts of the Case**

- Alfonso Lopez, a high school student, carried a concealed weapon into his high school. He was charged under Texas law with firearm possession on school premises.
- Federal agents charged Lopez with violating a federal criminal statute, the Gun-Free School Zones Act of 1990.
- The act forbids "any individual knowingly to possess a firearm at a place that [he] knows...is a school zone." Lopez was found guilty following a bench trial and sentenced to six months' imprisonment.

# US v Lopez

- The Supreme Court ruled that this law had nothing to do with regulating interstate commerce, so that US Congress had no authority here.
- the Gun-Free School Zones Act of 1990 was unconstitutional.



# Federalism since 2001

- USA PATRIOT Act
- Leave No Child Behind Act
- New law to give federal courts oversight on Terry Schiavo case, taking power away from states!  
(In 1999, Gov George W. Bush signed a bill that would allow hospitals to override the wishes of family members and remove a patient's life support when further treatment was judged futile by a hospital committee.)
- Bush and conservatives proposed Constitutional amendment to define marriage.
- Medicare entitlements

# The Grant System: Distributing the Federal Pie

- Categorical Grants: Federal grants that can be used for specific purposes. They have strings attached.

Project Grants: based on merit

Formula Grants: amount varies based on formulas

- Block Grants: Federal grants given more or less automatically to support broad programs