

AP US Government: Federalism Test Study Guide

Know:

- Federal governments' enumerated powers (all)
 - **Enumerated powers** – powers of fed. govt. (along with the not mentioned implied powers) addressed in Constitution such as Article 1, Sect. 8 for Congress such as the power to coin money, regulate its value, and impose taxes. Incs. Necessary and proper.
- Reserved power of states (all) – not enumerated
 - **Reserved powers** – any authority not given to federal government/denied to states that is given to the states such as voting laws, drinking age, education, public safety/transportation, ensuring people are healthy.
- Concurrent powers of 2 (all) – Shared powers such as power to tax
- Difference between the different styles(structures) of government
 1. **Federalism** – a way of organizing a nation so that two or more levels of government control the same area and people. (Today only 29 countries have federal style government-not norm, but supposed to work)
 2. **Unitary** – all power resides at one level of government (most common form today-ex. State govt.)
 3. **Confederation** – a weak national power in which sovereignty is retained by individual parts i.e. states (used under AoC)

US is federalism and unitary because state government is unitary

- Difference between the two types of cake
 - Dual – layered cake – time period 2
 - Cooperative – marble cake - today

- All about court cases discussed (see sheets w/ answers)

Federalism – has been effective through lens of history

*****Greatest cause of constitutional controversy- federalism (b/c of the brevity of the Constitution) such as the undefined commerce clause as it says Congress can control interstate commerce, not intrastate (within state.)**

- Framers decided to use it despite fact untested – still gave states sovereignty
- Federalist papers – told us why federalism great (3 reasons)
 1. Protects the liberty of the individual
 - Federalist 28 – Hamilton says Anti-feds argument that central government is destructive of liberties is not true and people will shift loyalties – **says each level will be used as check on others**
 - Anti- feds thought new system would take away states' sovereignty – wanted localized power/small republic (Montesquieu said they work best)
 - In Fed. #10 Madison disagrees – says **whether govt. serves best interest of people has nothing to do with the size of the republic** – could be tyranny of majority – **larger republic better b/c more capability to handle factions**
 2. Moderates the power of the government – so no too much
 3. Will provide an effective and efficient system of government

At end of day comes down to two things

1. Those in favor of strong national government - use supremacy clause to defend stance
2. Those in favor of states rights – use 10th Amendment (States rights amendment) for proof that states maintain sovereignty

****No right answer as to who has more power, but the fed. govt is supreme b/c history says so.**

3 Time Periods

1. 1789-1865(assassination of Abraham Lincoln)
2. 1865-1937
3. 1937-2011(present)

1789-1865

- Biggest issue – survival of nation
- Earlier years dominated by federal government
- Hamilton's creation of bank led to creation of political parties. Hamilton believed implied that bank could be created, while Jefferson believed that no enumerated power was given to Congress to create a national bank.
- Federal side support –
 - *McCulloch v. Maryland* (1819)
 - Maryland imposed huge tax on national bank in Baltimore and Edwin McCulloch a bank employee refused to pay the tax. Maryland sues. In Supreme Court, Marshall cites the Supremacy clause as to why the state cannot impose a tax on the national bank and endorses implied powers using the elastic clause.
 - *Gibbons v. Ogden* (1824) - steamboats
 - Ogden – had NY state license and monopoly
 - Gibbons – had federal license to operate steamboats from NJ and NY
 - Odgen complained.
 - Supreme Court ruled in favor of Gibbons – said that the Commerce Clause allowed Congress to control the operation of steamboats between NY and NJ

- **Broader interpretation of commerce clause – expands power of fed. govt. over states.**
- Slavery – threatened US at this time
- State side
 - *Dred Scott vs. Sandford*
 - Scott is black man in Missouri
 - 3 questions Supreme Court has to deal with
 1. Can Scott be in court? – **he cannot sue as he is not a citizen**
 2. Did Scott's time in free territory entitle him to freedom? - **No**
 3. Is the Missouri Compromise of 1820 unconstitutional?
 - **Yes, is violently unconstitutional because the 5th Amendment says one can have property where they want. It therefore violates the 5th Amendment.**

1865-1937 – Dual (Layered Cake) Federalism and Laissez Faire Capitalism

- Tremendous social change corporately with monopolies such as standard oil and racially (had to figure out how to assimilate blacks into society)
- Dual federalism – federal government and states have separate and own powers – like layered cake
 - Not effective form of govt.
- **2 major issues**
 1. Expansion of business and economic interests – judicial authority reigns supreme in business regulations
 2. Racial issues – state governments reign supreme
- 13 Amendment – abolishes slavery except as form of punishment
- **** 14th Amendment – arguably the most important amendment because**
 1. Citizenship – definition of it (those born and naturalized within US are citizens of country and the state in which they reside)

2. Incorporation – no state shall deny equal protection/due process under law

****Makes states accountable for protecting the rights of citizens**

- **Problem – 14th Amendment does not specify what rights the states protect (interpreted broadly by court)**
- *Plessy v. Ferguson*
 - Homer Plessy was black man that rode in white only first class rail car
 - Ferguson – Judge presiding over Plessy's case.
 - S.C. ruled in favor of Ferguson – new doctrine: **“separate but equal.”** – meaning that facilities had to be qualitatively equal
- Supreme Court takes amendment designed to help free blacks, and turn it around to harm them as well as allow corporations make billions without regulations
 - **Court favored Unrestricted Laissez Faire Capitalism**
 - Court is obstacle
 - Corporations become “persons” in 1886 slaughterhouse cases, so states and federal government cannot regulate business – **Court narrows scope of Commerce clause(only transportation)**
- *Hammer v. Dragunhart* (1918) – factory practices can only be regulated by states, not federal government
- Race relations – Courts change and put hammer down for them to protect blacks post 1937 with the 14th Amendment
- *Brown v. Board of Ed.* (1954,1955) – 3 in 1
 - Sep. but equal is inherently unequal
 - End segregation with “all deliberate speed” – any time frame they want

1937-2011 – National authority finally prevails

- End of judicial supremacy
- 1935 – *Schechter v. US* – **Court ruled NIRA (businesses allowed to combine=monopolies) unconstitutional**

- 1935 – NLRA – allowed organization, unions
- 1937 – S.C. allows Congress to use Commerce Clause as they want
- No longer dual federalism – ended in 1930's

3 ways we are federal government today

1. Expansion - federal government does not dominate areas, but lends a significant hand
 - During depression – people looked to fed. govt. for help
 - Expansion examples- LBJ's great society – welfare by fed. govt. and FEMA
 - **Expansion b/c interdependency of society**
2. Devolution – outcome of expansion. Since govt. is so big, some power is returned to the states.

*****Era of Cooperative (Marble Cake) Federalism** - shared responsibly between dif. levels of govt.

- Dif. Levels of govt. rely on each other for successful public policy
- Ex. Medicaid – Johnson's Great Society – health insurance for economically disadvantaged
- There are hundreds of jointly run programs that have **3 characteristics in common**
 1. Jointly funded – fed and state govts.
 2. Jointly administered
 3. Joint determination – have say in determining eligibility requirements and benefit levels.

Fiscal Federalism - money is building block to major levels of govt. – federal, state (and even local)

- **Expenditure of federal funds on programs maintained by states** (and local govts.)
- Fed. govt. gives **grants in aid** (cash payments)
 - gives govt. sig. say in way states spend \$
- States' biggest complaint – too many strings attached

2 types of grants

1. **Categorical** – most restrictive, strings attached (specific)
 - Congress prefers historically because control how \$ spent
 - Money must be spent for designated purpose
2. **Block** – more general as to what money can be spent on
 - Recently preferred by Congress – more effective form of Cooperative Federalism

Revenue sharing – type of fiscal federalism

- Started under Johnson into 70's – ended by Reagan
- **Blank check**

Mandates

- Something you are forced to do, imposed by fed. govt on state and local govts.
- Unfunded mandates – states must adhere to and foot bill too

New Federalism (Devolution) – Republican idea

- More responsibility for states

Devolutions showed itself in two areas

1. Welfare Reform

- Aid to Families with Dependent Children – Johnson
 - Categorical
 - Fed. “entitlement” program
- Temp. assistance to Needy Children (1996) – Bloc grant(devolution)

2. Crime prevention

- Violent Crime Act (1994) – Categorical grants
- Taking back our streets Act(1996) – Bloc GRANT

1994 – Republican take over Congress w/ Clinton in office

- GOP policy- Contract with America
- Limited unfunded mandate reform w/ unfunded mandates reform act