

Federalism

- Power divided between central gov't & component parts
 - In US = national, state, & local gov'ts
 - Alternatives:
 - Constitution divides between national & state
- Models of Federalism
 - Dual Federalism - "Layer Cake"
 - Cooperative Federalism - "Marble Cake"
 - New Federalism
- Powers of National Gov't
 - Congressional authority in many areas
 - Independent executive & judicial branches
 - Supremacy of Constitution & US law over state constitutions & laws
- Restrictions on State Power
 - Art I, Sec 10, Cl 1-3
 - Other restrictions added later by SC

- Shared/Concurrent Powers
 - Powers given to both

- Reserved Powers
 - Powers “reserved” by states

 - Denied to national govt

- Powers denied to both
 - Prohibition of the Bill of Rights

 - Art I, Sec 9, Cl 3 - ban on ex post facto laws & bills of attainder

 - Art I, Sec 9, Cl 8 – no titles of nobility

 - 13th Amend – no slavery

 - 15th Amend – Cant deny right to vote on basis of race, color, or previous servitude

 - 19th Amend – Cant deny right to vote by gender

- Evolution of Federalism
 - Triggered by disputes over meaning of Constitution

 - Expansion began during Marshall Court (1801-1835)

- Power of National Gov't = Civil War
 - Critics of national power challenge theory of national supremacy
 - Advocates of States' Rights
 - Prominent theories
 - Legal case for succession based on states = supreme
 - Lincoln's view
 - Civil War = severe blow to States' Rights
- Post Civil War to Depression
 - Battle for national supremacy shifts into economic arena
 - Triggers push for 16th Amend (1913)
 - States keep pace with national
 - SC accepts growth of both
- Roosevelt's New Deal
 - Enacted many socialist labor policies
 - Proposed "court-packing" bill

- “New Deal” Court upheld FDR’s issues
- 1937-1995
 - SC doesn’t find single federal law in violation of Commerce Clause
 - Ends with US v. Lopez (1995)
- Federal Grants
 - Congress uses money to coerce states to pursue policies favored by national gov’t
 - Used of grants paralleled era of Cooperative Federalism, especially LBJ’s Great Society
 - Grant programs serve several purposes
 - Grants come in different forms
 - Recent years