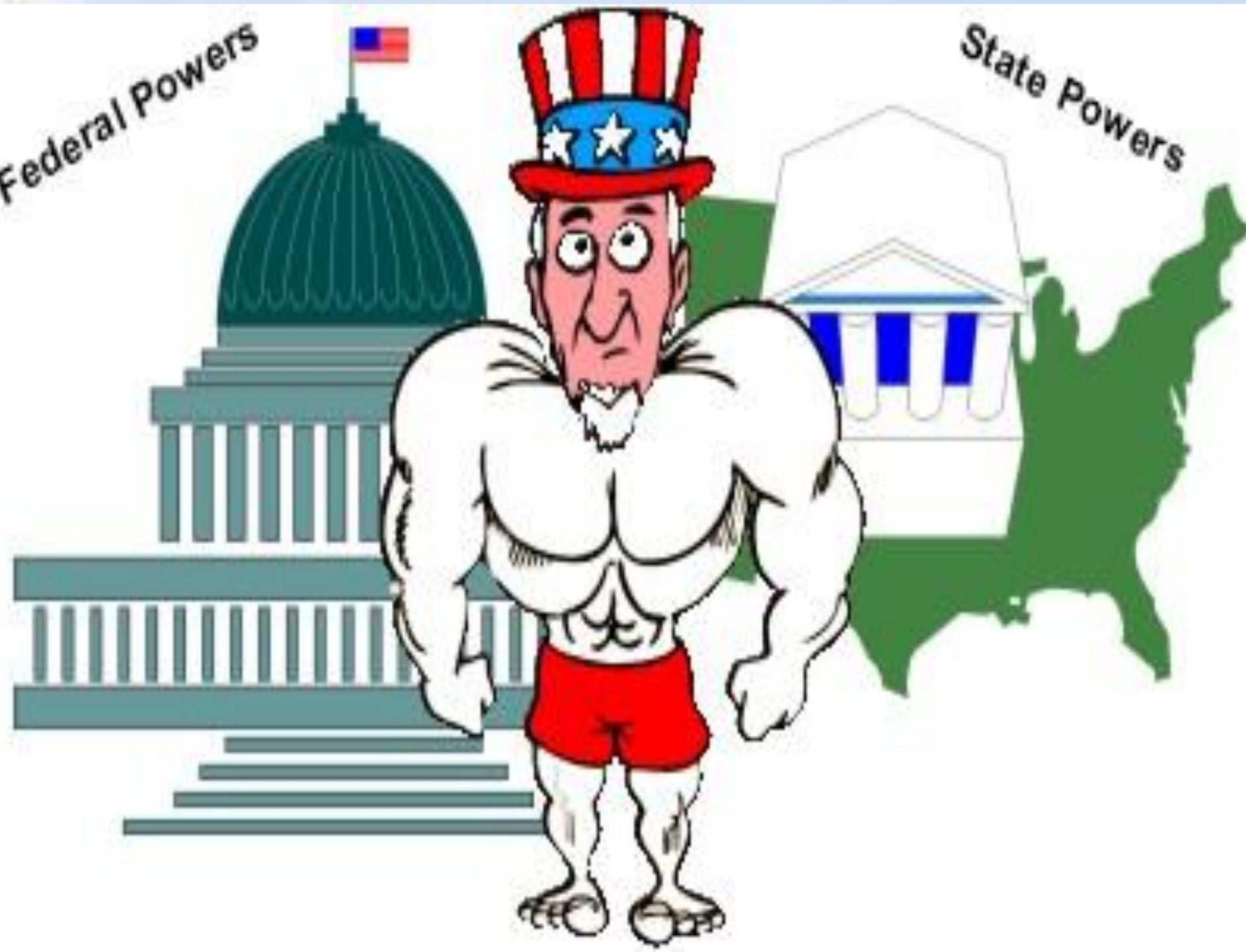




# Federalism

Federal Powers

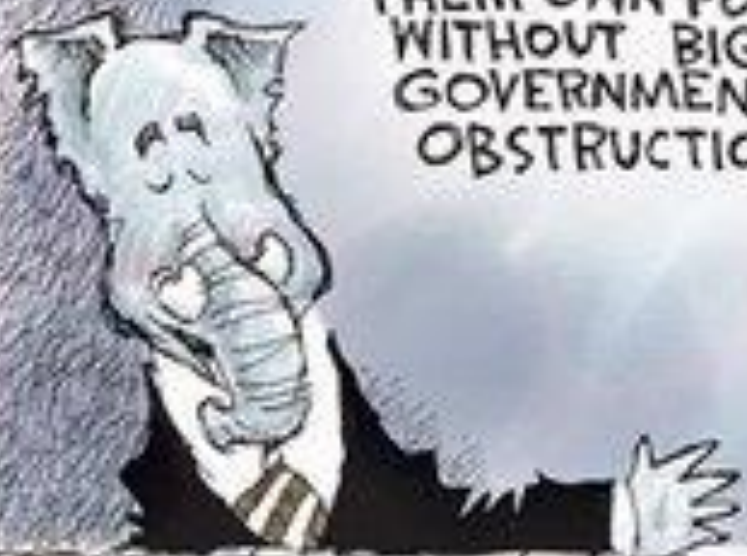
State Powers



WE BELIEVE  
IN FEDERALISM...



STATES SHOULD BE  
ALLOWED TO SET  
THEIR OWN POLICIES  
WITHOUT BIG  
GOVERNMENT  
OBSTRUCTIONISM...



WASHINGTON  
DOESN'T HAVE  
A MONOPOLY  
ON WISDOM...



WE WANT TO  
HOLD CARMAKERS  
TO STRICTER  
ENVIRONMENTAL  
STANDARDS...

ARE YOU  
NUTS??



NICK SPINALE  
© 1-2-3 OF  
FRANK OBERMILLER

# I. What is Federalism?

- A. Recall the other two governmental systems that we studied:
  - 1. A Unitary System – Where the central government holds virtually all government powers.
  - 2. A Confederal system – Where the State government hold virtually all government powers

# I. What is Federalism?

- B. Federal System –
- A system in which both a national government and state governments share power.
- C. Federalism –
- The sharing of power among state and national governments.
- D. Note - All smaller local governments like city and township governments are created and authorized by the state governments of the state in which they are located.

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## II. Advantages of a Federal System.

- **A. According to the founders, federalism can protect liberty**
  - 1. Dividing up government power makes those who have power less dangerous.

## II. Advantages of a Federal System.

2. Two ways that the constitution divides up or '**decentralizes**' government power:

- a. Separation of Powers - Separating government powers among three different branches; i.e, dividing horizontally.

## II. Advantages of a Federal System.

- b. Federalism - Separating government powers among 1 national and 50 state governments (and many local governments too); i.e., dividing vertically.
  - 1.) This decentralization means that no one person or group has sufficient power to violate our liberties - hopefully!
  - 2.) If the new national government becomes abusive, citizens can still seek protection from their state government and vice versa.



## II. Advantages of a Federal System.

- B. Regional **Autonomy** –
- Each level of government can make laws appropriate for their particular constituents.
- 1. The National Government can make laws for all citizens when one common standard is appropriate.
- 2. State governments can make laws that suit their citizens' particular circumstances
- a. Border states are different from inland states are different from coastal states are different from agricultural states are different from industrial states are different from tourist states, etc.

## II. Advantages of a Federal System.

- **C. "Laboratories of Democracy"**
- - Different approaches to problems (different 'experiments') can be tried in different states.
- - If they succeed, they can spread to other states or to the national government.
- 1. A version of Obama's health care law was first implemented at the state level in Massachusetts by, would you believe it...
  - GOVERNOR MITT ROMNEY!
  - go figure.

## II. Advantages of a Federal System.

### • **D. Multiple Access Points**

- - Dividing up the government gives citizens many different parts to try to influence to try to change public policy; i.e, multiple "access points."
- - With separation of powers, we can try to influence the executive, legislative, or judicial branches.
  - - With federalism, we can try to influence the **US** Congress, the **state** legislature, the **local** town hall, the **local** Mayer, the **state** governor, etc.
  - - These multiple access points increase political participation because they provide more opportunities to participate.



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# FEDERALISM

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**NATIONAL**



**STATE**



**LOCAL**

### III. Other consequences of Federalism (good or bad?)


- A. There is little consistency from state to state
  - 1. Gun control, capital punishment, taxes, etc.
- B. Each level of government can interfere with the other (for good or bad purposes)
  - 1. Southern state governments resisted the national government's effort to end segregation for a long time.
  - 2. However, states also can resist national efforts to put a nuclear waste dump within their borders.

# IV. Our Federal Division of Powers.

- A. Enumerated Powers (aka Delegated Powers)-
- Powers exclusive to the national government.
  - 1. Constitutional Source –
- Article 1, section 8 lists or "enumerates" specific powers of the national Congress

# IV. Our Federal Division of Powers.

- B. Reserved Powers -
- Powers exclusive to the state governments
  - 1. Constitutional Source - 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."*
- a.) Recall that under the Articles of Confederation, the state governments had virtually all powers of government.

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## IV. Our Federal Division of Powers.

- b.) The Constitution took some of those powers away and gave them to the new stronger national government.
- c.) The ones that the Constitution did not take away, the states kept or "reserved"
- d.) Hence, they are called "reserved powers"



# IV. Our Federal Division of Powers.

- 2. Police Power –
- The power to make laws that promote the health, safety, and morals of the citizens.
- a.) It is the most significant state / reserved power
- b.) Examples include the powers to:
  - 1.) make and enforce criminal laws (including perhaps the death penalty)
  - 2.) make laws regarding public education
  - 3.) oversee roads and highways.

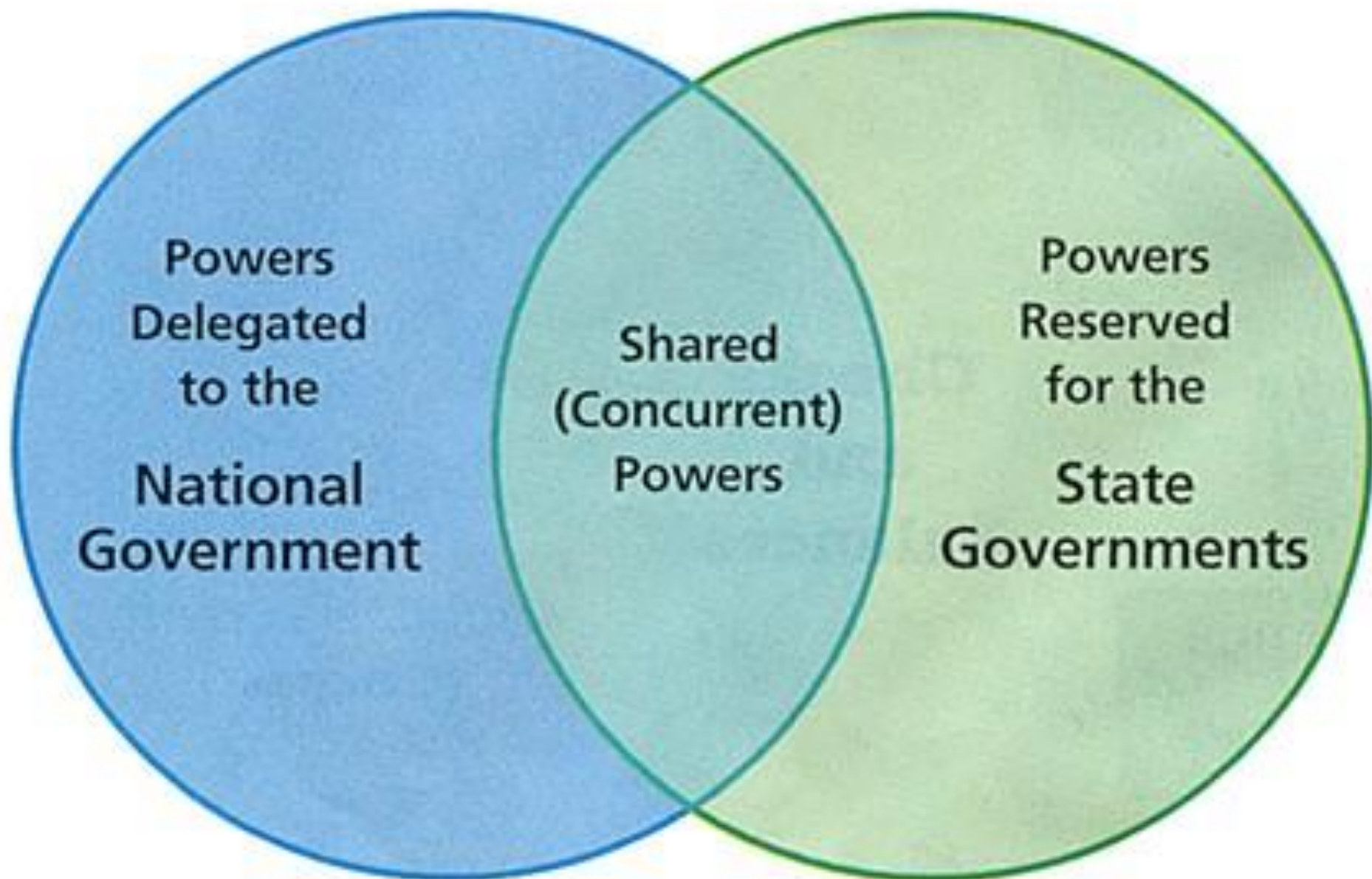
# IV. Our Federal Division of Powers.

- C. Concurrent Powers –
- Powers that the state governments and the national government are both allowed to practice.
- 1. Giving these powers to the national government did not require that they also be taken from the states.
  - a. Saying Congress can collect taxes does not mean that the states can't also.
  - b. But saying Congress can declare war does mean that states can't.
- 2. What is and is not a concurrent power has often been determined by the Supreme Court in various court cases throughout US history.

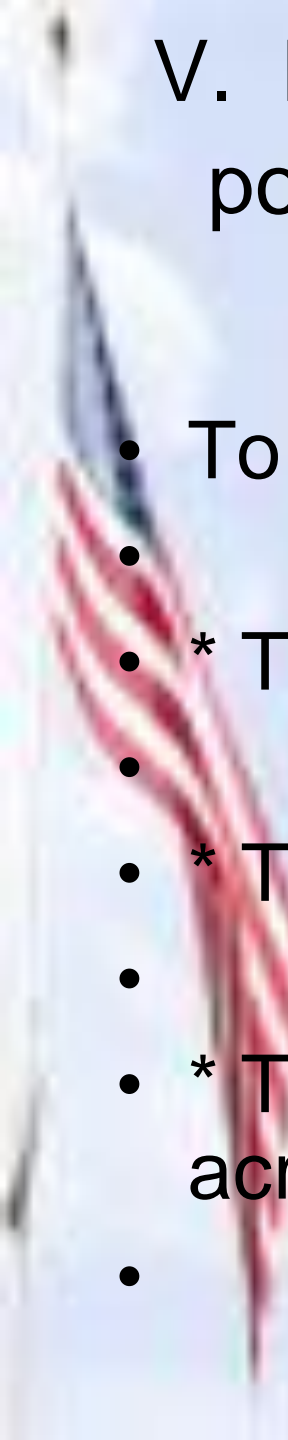
# IV. Our Federal Division of Powers.

- 3. Constitutional Stipulation - Article VI, section 2: The Supremacy Clause -
- *"This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the constitution or laws of any state to the contrary notwithstanding."*
- a. In other words, if there is a conflict, federal law trumps state law.

# Federalism





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## V. Examples of the division of government power. (Those with an \* are particularly important for the test)

- To make laws
  - Concurrent
  - \* To Declare War
  - Enumerated
  - \* The Police Power
  - Reserved
  - \* To Regulate interstate commerce (trade across state borders)
  - Enumerated

# V. Examples of the division of government power.

- To maintain the army and navy
  - Enumerated
- To create courts
  - Concurrent
- To coin money
  - Enumerated
- To Regulate intrastate Commerce (trade within a state's borders)
  - Reserved

# V. Examples of the division of government power.

- To create local governments
- Reserved
- \*To ratify amendments to the US Constitution
- Reserved
- To conduct foreign affairs
- Enumerated
- \*To set the time, place, and manner of elections
- Reserved.



# V. Examples of the division of government power.

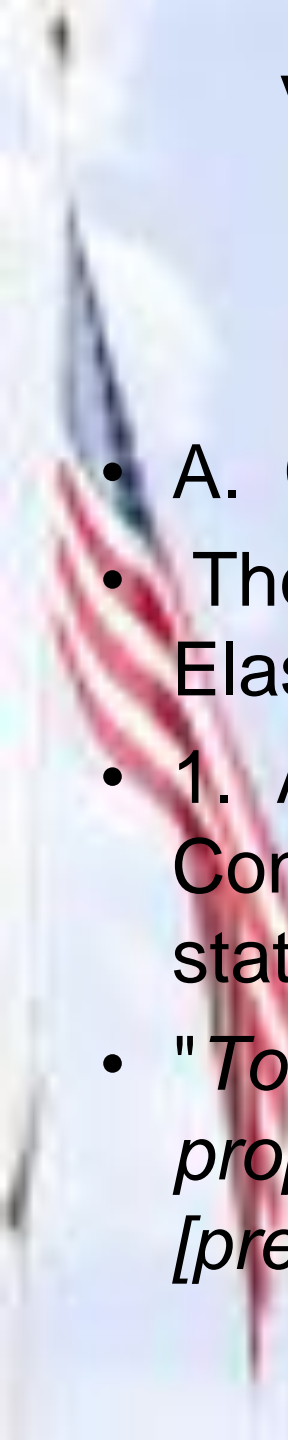
- To borrow money
- Concurrent
- \*To Tax
- Concurrent
- To spend money for the general welfare
- Concurrent

# Federalism

## Powers Delegated to the National Government

## Powers Reserved to States



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## VI. Implied Powers -The "other" powers of Congress (Besides the enumerated powers)

- A. Constitutional Source –
- The Necessary and Proper Clause (aka - the Elastic Clause)
  1. After enumerating the specific powers of Congress, Article 1, section 8 concludes by stating that Congress has the power,
- *"To make all laws which shall be necessary and proper for carrying into execution the forgoing [previously listed] powers..."*

## VI. Implied Powers (The "other" powers of Congress)

- 2. In other words, in addition to the powers listed here, Congress can do whatever else it needs to do in order to carry out the powers listed here.
- 3. Formula: The Necessary and Proper Clause
  - + an enumerated power of Congress =
  - A new power of Congress.
- 4. Implied Powers - These new powers that come from the necessary and proper clause combined with an enumerated power.

## VI. Implied Powers (The "other" powers of Congress)

- 5. Another clause / power that Congress has often used on its own or combined with the Necessary and proper clause to expand its power is...
- The Interstate Commerce Clause.
- Congress shall have the power, "*To regulate commerce with foreign nations, **and among the several states...***"
- 6. Over time, the Supreme Court has determined that *commerce* (trade) is related to almost any kind of economic activity whatsoever!

## VI. Implied Powers (The "other" powers of Congress)

- B. By using these two clauses, Congress has taken the following actions and thousands of others that are not explicitly authorized by the Constitution.
  - 1.) Created the National Bank of the US (now gone)
  - 2.) Built Hydro-electric dams
  - 3.) Built the 47,000 mile interstate highway system
  - 4.) Prohibited racial discrimination in privately owned establishments.
  - 5.) Created the CCC, TVA, WPA, and the rest of FDR's huge New Deal program.
  - 6.) Required Americans to purchase health insurance (Pres. Trump repealed this requirement)
  - **7.) and thousands of other things not enumerated in Article 1, Section 8!**

## VI. Implied Powers (The "other" powers of Congress)

- C. As the national government has acquired more power in this way, states have necessarily become relatively weaker in comparison.
- D. Is this good or not?
  - 1. Republican Answer –  
Generally No
  - 2. Democratic Answer –  
Generally Yes

**FEDERALISM**