

DUAL FEDERALISM (1789-1860)

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1789

- The Founding Fathers replaced the Articles of Confederation by ratifying the Constitution



- This provided for a stronger central government, however, it also brought into play the delicate balance between states' rights and federal power

FEDERAL POWERS

- Enumerated Powers:
 - coin money, conduct foreign relations, declare war, establish a national court system, tax, provide a postal service, and provide for a standing army and navy



- Necessary and Proper Clause (Elastic Clause):
 - Congress can enact any laws that are necessary to carry out their Enumerated powers; called Implied Powers



STATE POWERS

- States are allowed to hold elections and decide how elections for representatives are managed
- States Reserved or Police Powers: ability to legislate public health, safety, and morals of citizens



U.S. HOSPITAL PRICES VARY WILDLY

MAJOR JOINT REPLACEMENT

CHICKASAW NATIONAL
MEDICAL CENTER, ADA, OK
LIST PRICE: **\$5,304**

MONTEREY PARK HOSPITAL,
MONTEREY, CA
LIST PRICE: **\$223,373**

SIMPLE PNEUMONIA (NO COMPLICATIONS)

LAKE MARTIN COMMUNITY
HOSPITAL,
DADEVILLE, ALABAMA
LIST PRICE: **\$4,078**

BAYONNE HOSPITAL CENTER,
BAYONNE, NJ
LIST PRICE: **\$88,521**

CONCURRENT POWERS

- Both the Federal and State governments share certain powers under the Constitution called Concurrent Powers
- These powers are the power to tax, the right to borrow money, right to establish courts, and to make and enforce laws necessary to carry out these powers



DENIED POWERS

- Both the National Government and the State Governments have certain denied powers
- These powers are:
 - States:
 - Cannot enter into treaties
 - Cannot coin money
 - Cannot impair obligation of contracts
 - Cannot enter into compacts with other states without Congressional approval
 - Congress:
 - Cannot favor one state over another while regulating commerce
 - Cannot lay duties on States' exports

DENIED POWERS CONTINUED

- Denied for both Congress and States:
 - Cannot infringe on Constitutional rights and liberties
 - Cannot declare an act illegal without a judicial trial (Bill of Attainder)
 - Cannot declare a person or persons actions from the past illegal if their actions were legal at the time (ex post facto laws)



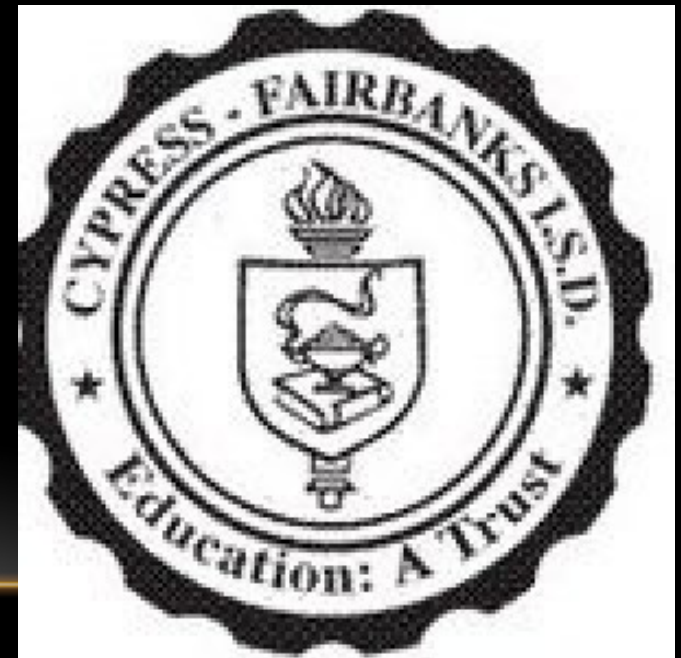
STATES RELATIONS

- All legal disputes between states are settled directly by the United States Supreme Court as stated in Article III
- Each State is required to give Full Faith and Credit to the acts, records, and judicial proceedings of every other state in order to help facilitate commerce as stated in Article IV
- Each state is required to follow the Criminal Extradition Act as mandated in Article IV



LOCAL GOVERNMENTS

- Local Governments consist of cities, townships, counties, and school districts
- They have no independent standing
- They get their power from the state government



THE MARSHALL COURT

- John Marshall served as Chief Justice from (1801-1835) and had a huge impact on federalism in the United States
- McCulloch v. Maryland (1819)
 - First major decision of the Marshall Court
 - 1816: Congress chartered the second Bank of the United States
 - 1818: Maryland levied a tax the all non-Maryland chartered banks to buy stamped paper from the states, pay \$15,000 to the state every year, or go out of business
 - McCulloch refused the tax and was sued by Maryland
 - McCulloch appealed the case to the Supreme Court
 - Marshall declared that Congress had the right to charter the bank and states could not tax a federal institution within their state

MARSHALL COURT CONTINUED

- Gibbons v. Ogden (1824)
 - 1824: New York granted exclusive rights to operate steamboats on the Hudson River to Robert Fulton
 - At the same time Congress granted a New Jersey Steamboat exclusive rights on the same waters
 - The case was eventually appealed to the Supreme Court
 - Marshall declared that Congress' power to regulate interstate commerce included the regulation of commercial activity



MARSHALL COURT (OTHER CASES)

- Dartmouth College v. Woodward (1819): the Supreme Court held that private corporate charters are protected by the Contract Clause of the Constitution
- Johnson v. M'Intosh (1823): Private citizens were not allowed to buy tribal land directly from tribes. The government must purchase the land first to sell to the citizens.
- Worcester v. Georgia (1832): Court ruled Georgia's law prohibiting non-Indians from being on Indian land without a license was unconstitutional due to the federal government having exclusive authority
- Barron v. Baltimore (1833): Court stated that the Bill of Rights was intended to apply only against the Federal Government and not the states

GROWING TENSIONS

- States began to clash over the power of the federal government with the North favoring the National powers and the Southern states favoring States' Rights
 - “Tariff of Abomination”
 - The Federal Government passed the “Tariff of Abomination” which would boost the North’s economy, but hurt the South’s economy
 - South Carolina formulated the Nullification Doctrine giving the state the ability to ignore a federal law and rejected the tariff
 - Although it was quickly resolved this shows the growing tension between Pro-State and Pro-Federal activists
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GROWING TENSIONS CONTINUED

- Prigg v. Pennsylvania
 - Edward Prigg was arrested for kidnapping a slave and her children in Pennsylvania
 - He was charged in Pennsylvania where kidnapping was considered a felony
 - The Supreme Court said he was within the bounds of the Federal Fugitive Slave Act of 1793

- Nullification by Wisconsin
 - The Supreme Court of Wisconsin declared the Fugitive Slave Act of 1850 unconstitutional
 - The US Supreme Court overturned their ruling
 - The Wisconsin Legislature then nullified the Supreme Courts Ruling echoing South Carolina's actions

GROWING TENSIONS CONTINUED

- Dred Scott v. Sandford
 - Declared that Americans of African descent had no legal citizenship therefore could not file suit in the courts sending Dred Scott back into slavery

These rulings intensified the already tense relationship between the Northern and Southern States setting the stage for the upcoming Civil War.



CAUTION!!
COLORED PEOPLE
OF BOSTON, ONE & ALL,
You are hereby respectfully CAUTIONED and advised, to avoid conversing with the
Watchmen and Police Officers
of Boston,
For since the recent **ORDER OF THE MAYOR & ALDERMEN**, they are empowered to act as
KIDNAPPERS
AND
Slave Catchers,
And they have already been actually employed in **KIDNAPPING, CATCHING, AND KEEPING SLAVES.** Therefore, if you value your **LIBERTY**, and the **Welfare of the Fugitives** among you, **Shun** them in every possible manner, as so many **HOUNDS** on the track of the most unfortunate of your race.
Keep a Sharp Look Out for KIDNAPPERS, and have TOP EYE open.
APRIL 24, 1851.

