

Aim: How has Federalism changed over the course of American History?

- Do Now: List 3 rights guaranteed by the 14th Amendments?
- Federalism Review: Tuesday October 29
- Federalism Exam: Wednesday October 30

Supremacy Clause

- Article VI, Section 2 of the U.S. Constitution.
- Establishes that the federal constitution, and federal law generally, take precedence over state laws, and even state constitutions.
- Prohibits states from interfering with the federal government's exercise of its constitutional powers

Article IV Section I

- Read: What is the meaning of Article IV Section I
- I and II?

State Obligations to One Another

- “Full Faith and Credit” Clause
 - Requires states to honor the “Public Acts, records, and judicial proceedings” of other states
 - Supreme Court has allowed exceptions for “public policy” reasons (if states have strong objections to the law, they do not have to honor it).
 - *U.S. v. Windsor* (2013): Cleared the way for same-sex married couples to receive federal benefits.

Due Process

- The procedures that government must follow before denying a person of their basic rights.

- **Fifth Amendment** - Says to the federal government that no one shall be "deprived of life, liberty or property without due process of law."
- **Fourteenth Amendment (1868)** - uses the same eleven words to describe a legal obligation of all states.
-

United States v. Windsor - Oyez

5-4

- What was the Supreme Court's Decision in United States v. Windsor (2013)?
- What were the arguments for the dissenting opinions?

United States v. Windsor

- Constitutional Issue: Does the Defense of Marriage Act, which defines the term "marriage" under federal law as a "legal union between one man and one woman" deprive same-sex couples who are legally married under state laws of their Fifth Amendment rights to equal protection under federal law?

United States v. Windsor (2013)

- Decision: Yes. Supreme Court ruled that section three of "Defense of Marriage Act" (DOMA) is unconstitutional and that the federal government cannot discriminate against married same-sex couples for the purposes of determining federal benefits and protections.
- Violates of the Fifth Amendment's guarantee of equal protection (Due Process).

14th Amendment

- Birthright Citizen
- Equal Protection
- Incorporation Doctrine -
Due process

Incorporation Doctrine

- a constitutional doctrine through which the first ten amendments of the United States Constitution (known as the Bill of Rights) are made applicable to the states through the Due Process clause of the Fourteenth Amendment.

Obergefell v. Hodges (2015)

- Read the facts of the case.
- Answer the questions using the 14th Amendment, Civil Rights Act of 1964, and the 10 Amendment.

Obergefell v. Hodges (2015)

- What was the Supreme Court's Decision?
- What were the arguments for the dissenting opinions?

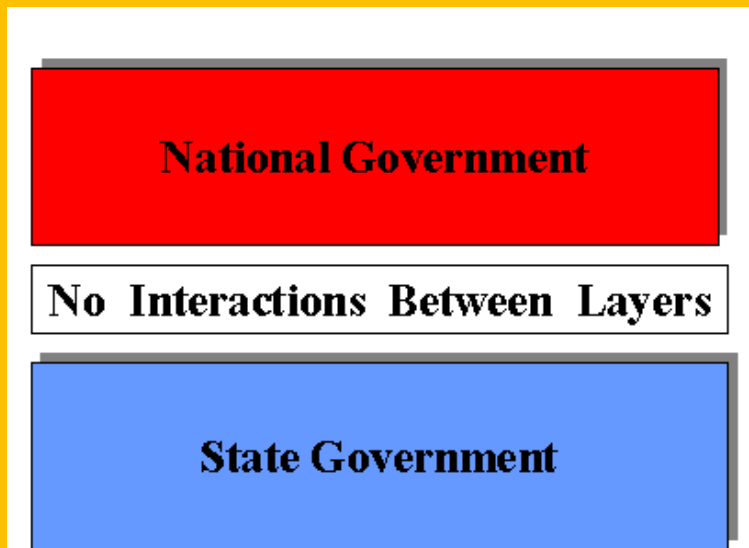
Obergefell v. Hodges (2015)

- Constitutional Issue: Do state bans on same-sex marriage violate the 14th Amendment?
- Decision: State bans on same-sex marriage are unconstitutional – Violates the Equal Protection Clause of the 14th Amendment
- https://www.youtube.com/watch?v=Rn-Zrj_GTGs

2 Federalisms?

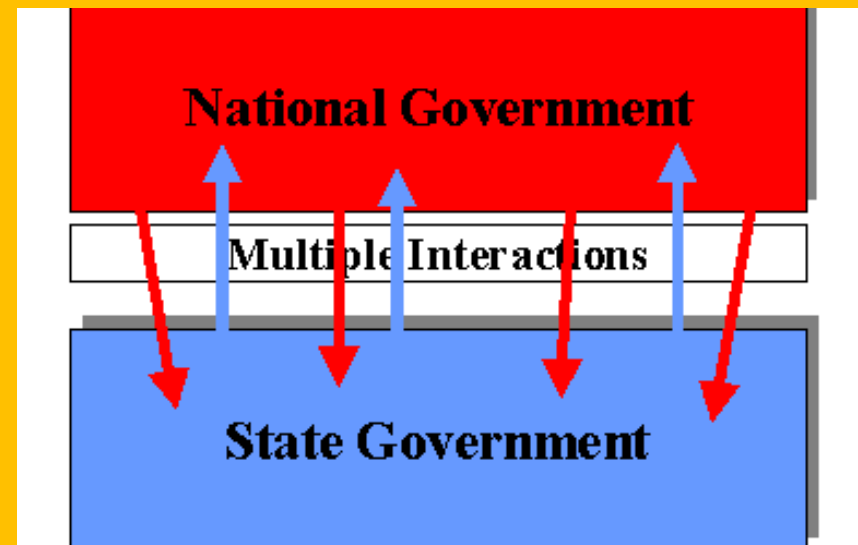
- Dual Federalism – Layer Cake Federalism

- ❑ Federal and state governments remain dominant in their separate spheres of influence
- ❑ A clear delineation of authority among different levels of government



- Cooperative Federalism – Marble Cake Federalism

- ❑ State and Federal governments work together to solve complex problems
- ❑ Mixing of authority and programs among national, state, and local levels



Dual Federalism (Layer Cake)

Federalism

National

- Declare war
- Maintain armed forces
- Regulate interstate and foreign trade
- Admit new states
- Establish post offices
- Set standard weights and measures
- Coin money
- Establish foreign policy
- Make all laws necessary and proper for carrying out delegated powers

Shared

- Maintain law and order
- Levy taxes
- Borrow money
- Charter banks
- Establish courts
- Provide for public welfare

State

- Establish and maintain schools
- Establish local governments
- Regulate business within the state
- Make marriage laws
- Provide for public safety
- Assume other powers not delegated to the national government or prohibited to the states

Federalism

Dual → Cooperative

- Having a Federal Standard for Services
- Having a federal standard for Civil Rights

National Government

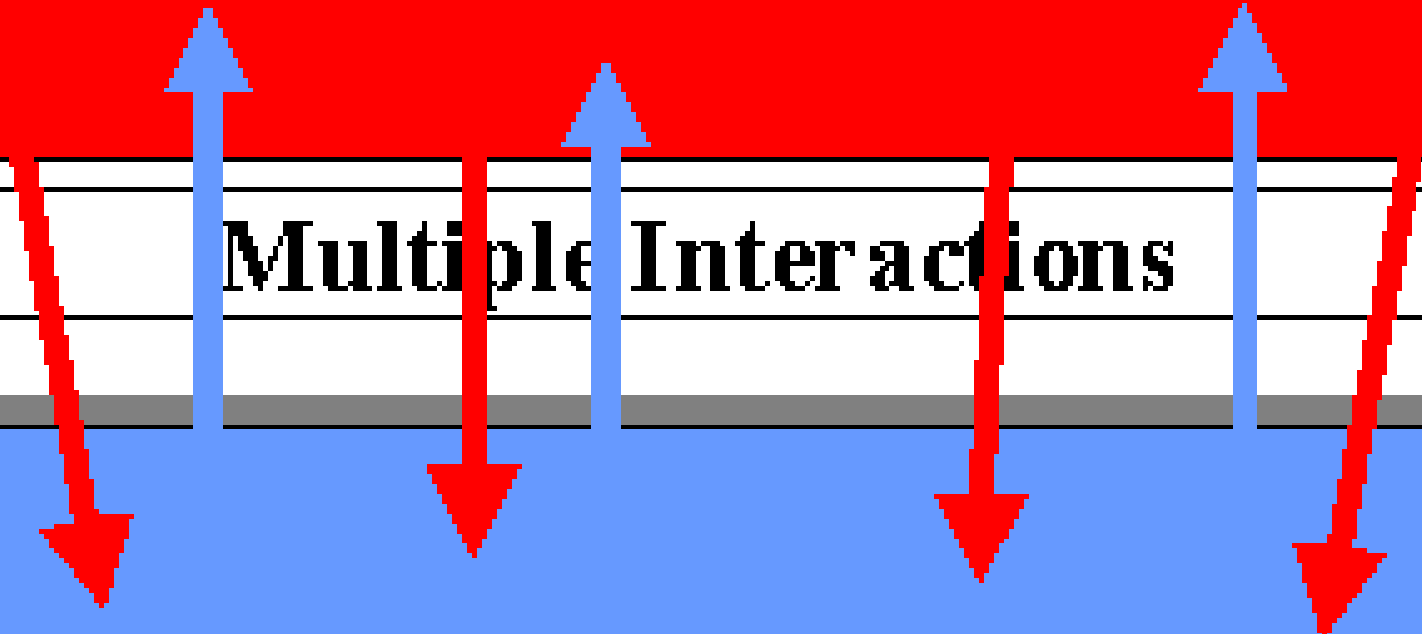
No Interactions Between Layers

State Government

National Government

Multiple Interactions

State Government



Federalism

Dual



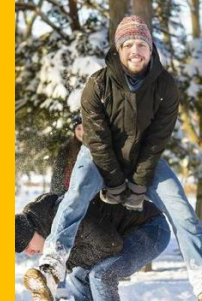
Education –
purely a state
function

Cooperative



National Defense and
Education Act (1950s
and 1960s) – federal
aid for science and
math

Centralized



No Child Left
Behind (2002) –
states required to
test students
grades 3-12

Federal mandate - is a requirement or an order from the central government that all state and local government must comply with.

Race to the Top – aid
tied to teacher
evaluations

Cooperative or Marble Cake Federalism – When did it begin for Services?

- The New Deal created massive federal programs that needed to be administered on the state and local levels, but paid for on the national level.

Shift of Power from States to Federal Government – Dual to Cooperative Federalism

- Having a Federal standard for Civil Rights
- By Amendment
 - Civil War Amendments
 - 13th – ended slavery (which had previously been a state right)
 - 14th
 - Due Process and incorporation clauses
 - Equal Protection clause
 - 15th Amendment – voting rights
 - Voting Rights Amendments
 - 15th (African Americans); 19th (women); 24th (no poll taxes); 26th (18 year olds)
 - 17th (1913) - Direct Election of senators rather than by state legislatures (Senators less likely to protect interests of state governments)

Federal Power Applied to States

- **Americans With Disabilities Act-** Bans discrimination based on physical disability, reasonable accommodations must be made, access to public facilities
- **Civil Rights Act 1964** – Applied Federal rules of antidiscrimination to states (equal accommodations, banned literacy tests, desegregation, banned discrimination in employment)



"In two words, yes and no."

What types of Federalism would best be applied to the situation in this cartoon?