

Constitutional Law Barbri

Constitutional Law Barbri Unraveling the Threads of Federalism A Guide to Constitutional Law

The US Constitution a document that's been around for over 200 years still shapes our daily lives. One of its most fundamental principles is federalism. This means power is shared between the federal government and the states. Understanding this concept is crucial for tackling Constitutional Law questions especially on the bar exam. This article will guide you through the key elements of federalism outlining:

- I The Basics of Federalism
- Enumerated Powers: The Constitution explicitly lists powers given to the federal government eg regulating interstate commerce declaring war. These powers are listed in I Section 8.
- Reserved Powers: The 10th Amendment reserves powers not explicitly given to the federal government or denied to the states to the states or to the people.
- Concurrent Powers: Some powers are shared between the federal and state governments eg taxation.
- II The Commerce Clause: A Powerhouse
- The Commerce Clause: I Section 8 Clause 3 gives Congress the power to regulate Commerce with foreign Nations and among the several States and with the Indian Tribes.
- Key Cases: *Gibbons v Ogden* 1824. This landmark case established a broad interpretation of the Commerce Clause holding that Congress has the power to regulate all commercial activity that substantially affects interstate commerce.
- Wickard v Filburn* 1942. This case further expanded federal power by ruling that even local activities with minimal interstate impact can be regulated if they in the aggregate have a substantial effect on interstate commerce.
- United States v Lopez* 1995. This case marked a shift establishing that the Commerce Clause does not allow Congress to regulate activities that have only an indirect effect on interstate commerce.
- United States v Morrison* 2000. This case further limited the reach of the Commerce Clause holding that Congress cannot regulate noneconomic violent criminal conduct that has a minimal connection to interstate commerce.
- 2 III The Necessary and Proper Clause
- The Clause: I Section 8 Clause 18 gives Congress the power to enact laws that are necessary and proper to carry out its enumerated powers.
- Key Case: *McCulloch v Maryland* 1819. This case established that the Necessary and Proper Clause gives Congress implied powers as long as those powers are related to an enumerated power.
- IV Limits on State Power
- Dormant Commerce Clause: Even though the Commerce Clause grants power to Congress it also implies limitations on states ability to regulate interstate commerce. This is known as the dormant Commerce Clause.
- Key Principles: States cannot discriminate against interstate commerce and regulations must have a substantial nexus to the states interest.
- Key Case: *Philadelphia v New Jersey* 1978. This case ruled that a state law that prohibited the importation of waste from other states was an unconstitutional burden on interstate commerce.
- V The Supremacy Clause: The Federal Government Wins
- The Clause: VI Clause 2 establishes the Constitution federal laws and treaties as the supreme Law of the Land.
- Key Principle: If a state law conflicts with a valid federal law the federal law prevails.
- Key Case: *Arizona v United States* 2012. This

case involved a state law that attempted to regulate immigration. The Supreme Court struck down parts of the law finding that it conflicted with federal immigration law.

VI Preemption When Federal Law Trumps State Law

Preemption This occurs when federal law overrides state law on a particular subject.

Express Preemption Federal law explicitly states that it preempts state law.

Implied Preemption Preemption is implied when:

- Field Preemption** Federal law occupies the entire field leaving no room for state regulation.
- Conflict Preemption** State law directly conflicts with federal law making it impossible to comply with both.

VII Intergovernmental Immunity States vs Federal Government

The Concept The federal government cannot tax or regulate the essential functions of state governments.

3 Key Case *National League of Cities v Usery* 1976. This case initially held that the federal government could not regulate the wages and hours of state employees. However, this case was later overruled by *Garcia v San Antonio Metropolitan Transit Authority* 1985, which ruled that states are not immune from federal regulation.

VIII Key Points for Bar Exam Success Focus on the Cases. Knowing the key cases and their holdings is essential for success on the bar exam.

Apply the Facts to the Law The key is to identify the applicable constitutional provisions and apply the relevant case law to the specific fact pattern presented.

Identify the Conflict Many federalism questions involve a conflict between state and federal power. Understanding the source of the conflict is crucial for understanding the issue.

IX Conclusion Federalism is a dynamic and complex area of law. Understanding its nuances and the core principles governing the relationship between the federal government and the states is critical for success on the bar exam and in practice. By mastering these concepts and analyzing key cases, you'll be well on your way to navigating the intricate world of federalism and confidently addressing any constitutional law questions you encounter.

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