






1.8 Constitution and Federalism



September 12/13, 2023



<i>Learning Intention</i>	 <i>Success Criteria</i>
<ul style="list-style-type: none"> ● I am learning about how the balance of power has been interpreted by SCOTUS ● I am learning about how government powers are distributed and shared in order to meet the needs of citizens and protect the “general welfare” of the United States. 	<ul style="list-style-type: none"> ● I can identify two SCOTUS cases related to the interpretation of federalism. ● I can identify how everyday Americans help define the Constitution, and how our system works to interpret and amend it.

<i>Agenda</i>	<i>Federalism: Const USA</i>
	
<i>Homework</i>	Read the Declaration of Independence and Articles of Confederation in your course reader. Next, watch the College Board (CB) 1.4 Daily Video videos 1 and 2
	Russia activates its nuclear nukes for the first time: early-warning defense radar detects an unexpected missile launch near Norway, and Russian military command estimates the missile to be only minutes from impact on Moscow. 1/25/1995



Constitution Day T-shirt *Extra Credit*

Front of T-shirt- U.S. Constitution

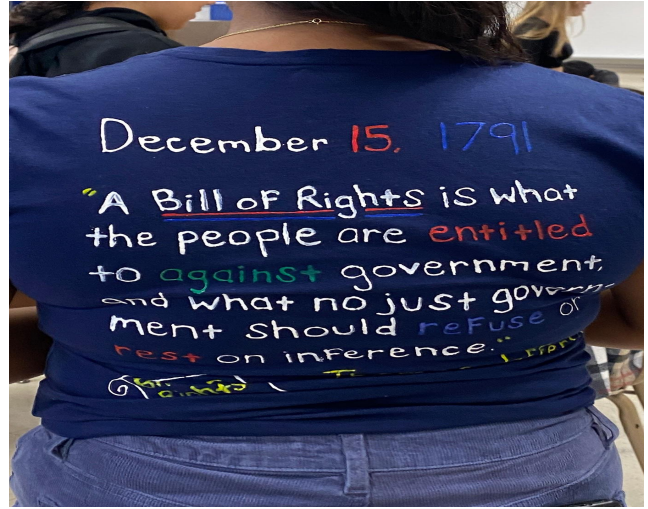
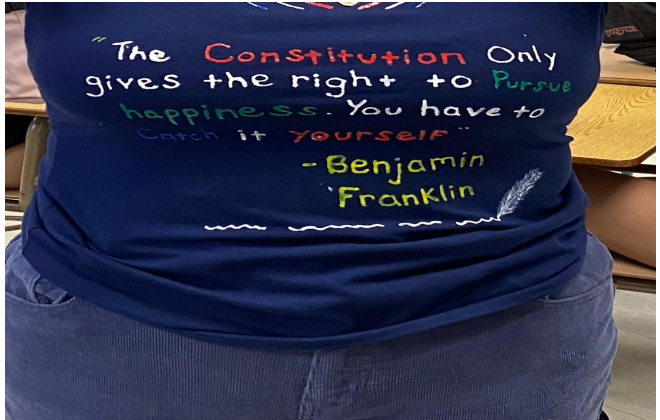
The t-shirt MUST include:

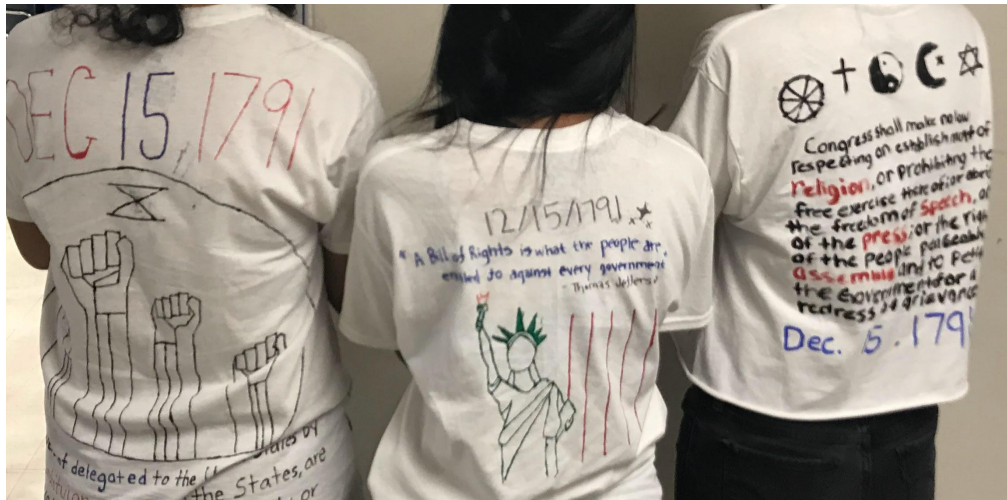
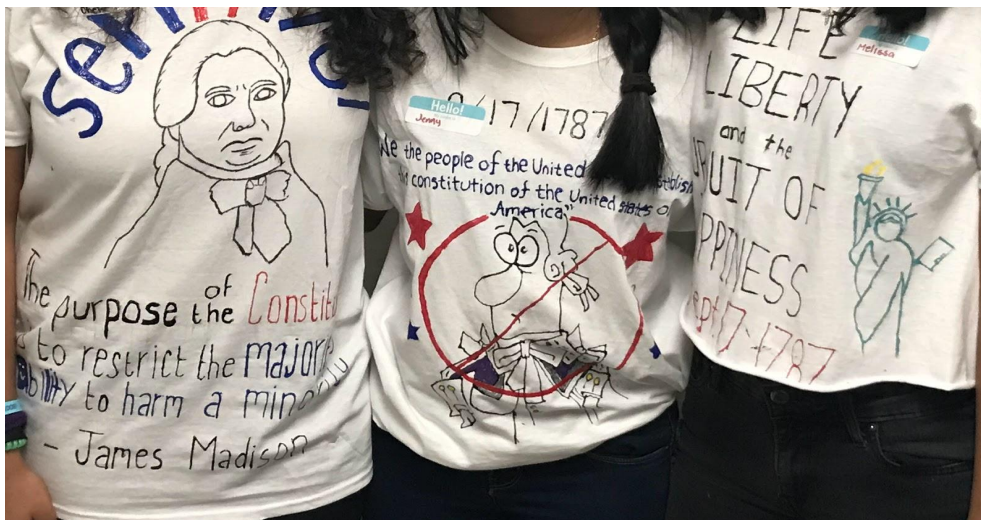
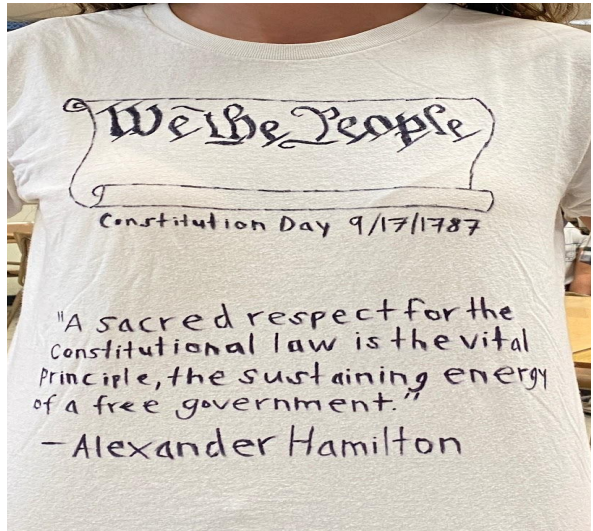
- Date: September 17, 1789
- Picture representing the U.S. Constitution- your choice
- Historical Quote about the U.S. Constitution and quote author

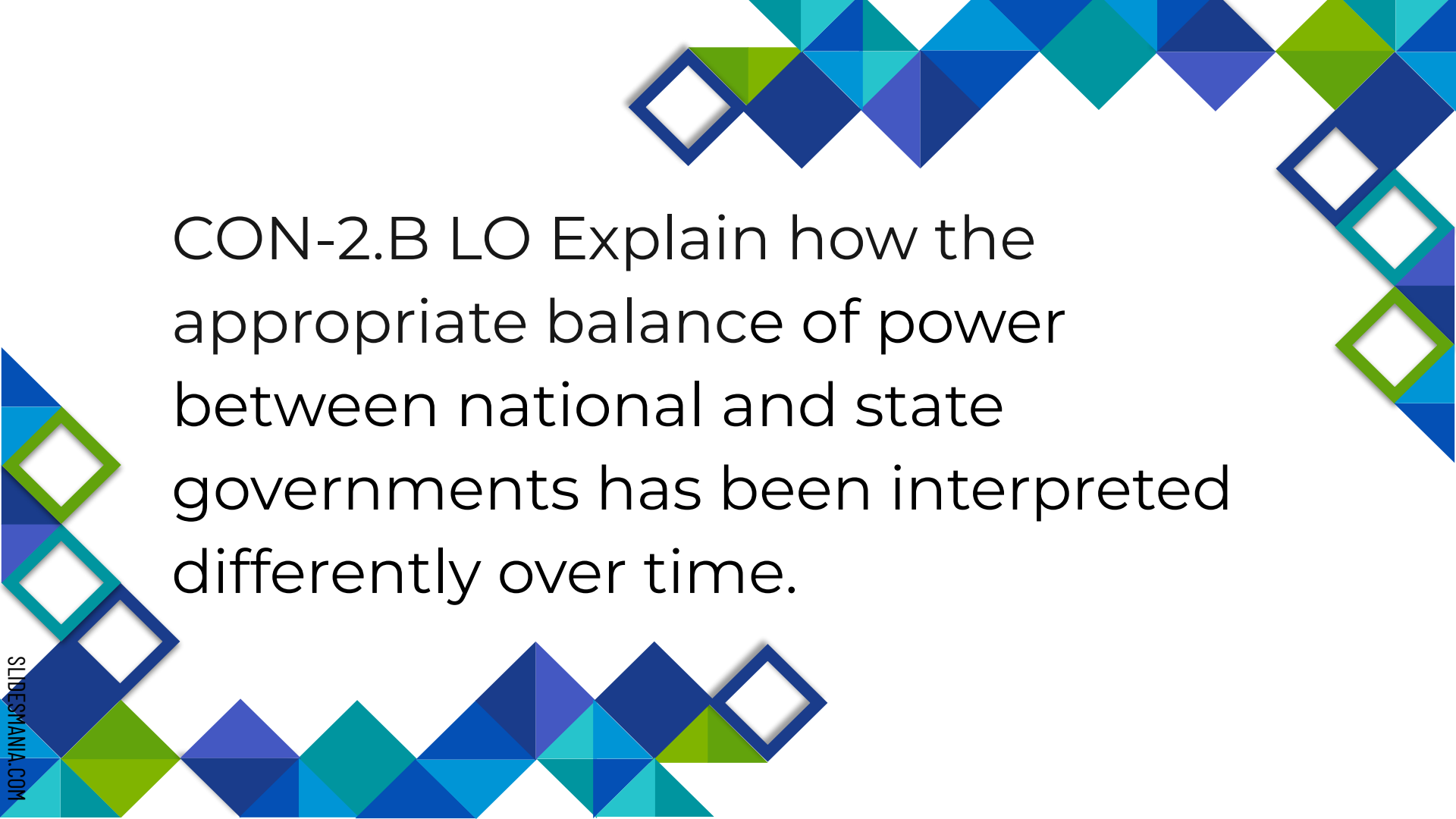
Back of T-Shirt- U.S. Bill of Rights

- Date: December 15, 1791
- Write down Amendment number and wording
- Picture representing the U.S. Bill of Rights- your choice
- Historical quote about the U.S. Amendment of your amendment and quote author

Due: Tuesday, September 19, 2023. You must wear your t-shirt to school!







CON-2.B LO Explain how the appropriate balance of power between national and state governments has been interpreted differently over time.



Learning Intention

- I am learning about how the balance of power has been interpreted by SCOTUS
- I am learning about how government powers are distributed and shared in order to meet the needs of citizens and protect the “general welfare” of the United States.

Success Criteria

- I can identify two SCOTUS cases related to the interpretation of federalism
- I can identify what our Founding Fathers were thinking when they wrote the Constitution, how everyday Americans help define the Constitution, and how our system works to interpret and amend it.

SCOTUS & Federalism

- 10th Amendment
- 14th Amendment
- Commerce Clause
- Necessary & Proper Clause

The Necessary and Proper Clause gives to Congress the power:

“To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.”

—Article I, Section 8, Clause 18

ARTICLE I, SECTION 8, CLAUSE 3:
[THE CONGRESS SHALL HAVE POWER]

TO REGULATE COMMERCE WITH FOREIGN NATIONS,
AND AMONG THE SEVERAL STATES,
AND WITH THE INDIAN TRIBES;

10th 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.

14th Amendment

...nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.



McCulloch v. Maryland (1819)

- Congress has right to create a bank- notion of implied power
- States cannot tax the national government (Supremacy Clause).
- First use of the Necessary and Proper (Elastic) Clause:
- Rational basis test: “Let the end be legitimate, let it be within the scope of the constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consist with the letter and spirit of the constitution, are constitutional.”



Gibbons v. Ogden (1824)

- Federal government's position is Supreme in this conflict between the state and the national government.
- Merely navigating the waters between two states was considered commerce.
- Thereafter, any business that transports anything across state lines – including supplies and workers – is subject to federal regulations.



Lochner v. New York (1905)

- 5-4 decision in favor of Lochner
- Limiting the hours of the workers violated their right to contract freely and was an illegitimate use of state police powers.
- Historically, this is widely regarded as one of the worst decisions in SCOTUS history.



What is Commerce

- Definition has changed over the years:
- Original definition – commerce includes all phases of business, including navigation (Gibbons v. Ogden)
- 1887-1937 – only the end phase of business (that actual exchange of goods).
 - Does not include production, manufacturing, mining, etc.
- 1937-1995 – Congress could regulate any activity if there was a substantial effect on interstate commerce.
 - expressly rejecting exclusion of production process



U.S. v. Lopez (1995)

- Although there's a compelling interest to keep guns out of schools, the federal law has nothing to do with commerce.
- This law is a criminal statute... and the federal government does not have that jurisdiction.
- First time in over half a century that SCOTUS limited Congressional authority to legislate under the Commerce Clause.

CONSTITUTION USA with Peter Sagal



- What did the Founders have in mind when they created a shared power system?



Constitutional Battle Ground State



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Power Struggle: Tug of War

- In what ways does the federal government step on the rights of the states? Why?
- What is the advantage of the state government making laws for the people?



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The Commerce Clause

- What is *Wickard v. Filburn*? Why is it important?
- Why might it be better for laws to be made by local governments?



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Optional

- How did the Great Depression put our nation in crisis? What actions did the federal government take to ensure the general welfare of the United States? What were seen as the negatives of the New Deal?

We Can't Go It Alone





Homework:

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