

FEDERALISM |



September 19/20, 2023



Learning Intention



Success Criteria

- I am learning about how the distribution of powers among three federal branches and between national and state governments impacts policy making.



- Explain how your issue creates a conflict between the national and state governments.

Agenda

Federalism Misc



Homework

AP Classroom Unit 1 Progress Check (multiple choice questions) & Read *US v. Lopez*



FEDERALISM DEFINED

The sharing of power between a central government and equally sovereign regional governments.



EXAMPLES OF FEDERALISM IN THE CONSTITUTION

Full faith and credit- All public acts, records, and judicial proceedings are recognized by other states. States must regard and honor one another's governments and laws.

Privileges and Immunities- Nonresidents of a state are entitled to all privileges and immunities of state residents.

Extradition- Obligates states to deliver captured fugitive criminals back to the state where they committed the original crime.

Article VI- The Supremacy Clause- Places national authority above state authority. National law, however, is limited by the enumerated list of Congress' powers in Article I, Section 8. But when a congressional act is enacted and constitutional, states cannot disregard it.

Article I, Section 8	Enumerated powers of Congress, including the "necessary and proper clause."
Article I, Section 9	Powers denied to Congress, no regulating slave trade before 1808, uniform treatment of states
Article I, Section 10	Powers denied to the states, such as treaties, impairing contracts
Article IV	Full Faith and Credit, privileges and immunities, Extradition
Article VI	Supremacy of the national government
Ninth Amendment	Rights not listed are reserved by the people
Tenth Amendment	Powers not delegated to the federal government reserved by the states



OVERLAP AND UNCERTAINTY

The legalization of same sex marriage in some states caused other states to expressly refuse recognition of these marriages.

Some states rewrote their marriage laws added amendments to their state constitutions to define marriage as between a man and woman only.

This controversy put Article IV in direct conflict with Amendment X.

MCCULLOCH V. MARYLAND

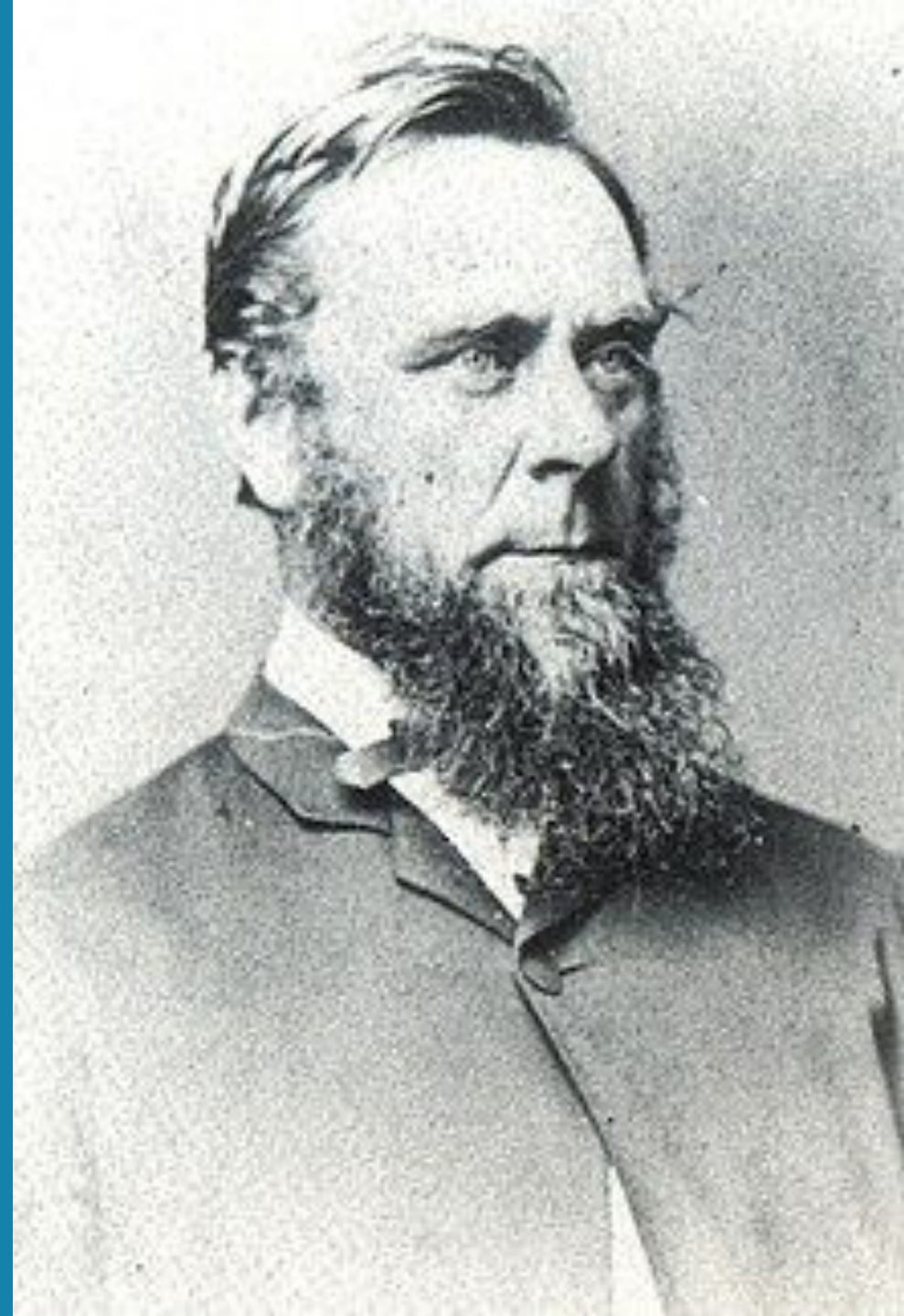
The U.S. bank controversy rises.

The state of Maryland questioned the legality of a congressionally created bank in Baltimore where James McCulloch was the chief cashier.

Maryland passed a law requiring all banks within its borders not incorporated by the state pay a \$15,000 tax to force the U.S. bank out of state and to overcome the federal government's power.

McCulloch refused to pay the tax, the state brought the case to court.

Landing in John Marshall's Supreme Court. Remember Jefferson does not support the bank., but John Adams did support the bank and he appointed Chief Justice Marshall.





Thomas Gibbons



Aaron Ogden

GIBBONS V. OGDEN

Five years after McCulloch, the issue of regulating commerce came to a head in Marshall's court.

A dispute arose around the monopoly granted to steamboat inventor Robert Fulton with exclusive rights to operate on the Hudson River.

At the same time Congress authorized a Coast Guard ship to sail on the same waterway.

Fulton and the government of N.Y. wanted to sustain the monopoly and argued that the commerce clause empowered Congress only to regulate actual goods.

Marshall and the SC decided in favor of the federal government, declaring that the federal government is in charge of commerce and certifying Congress' authority over most commercial activity.

THE COMMERCE CLAUSE

"Congress shall have the Power. . . to regulate Commerce. . . between the several States."

GIBBONS
v. OGDEN

The Court attempted to
limit its scope indirectly

THE NEW
DEAL

INTERPRETATION REMAINED EXPANSIVE

Court held New Deal laws
constitutional, interpreted
Commerce Clause broadly

1936

Court rejected FDR's laws
as violations of the clause

Civil Rights Act of 1964

REHNQUIST COURT

1. Channels of Commerce
2. Instrumentalities
3. Activities that may substantially affect interstate commerce

THE SUPREME COURT STRETCHES THE COMMERCE CLAUSE

A conservative Court disappointed reformers and issued setbacks that declared corporations as well as individuals were protected by the Constitution, and it questioned many health and safety regulations through the era.

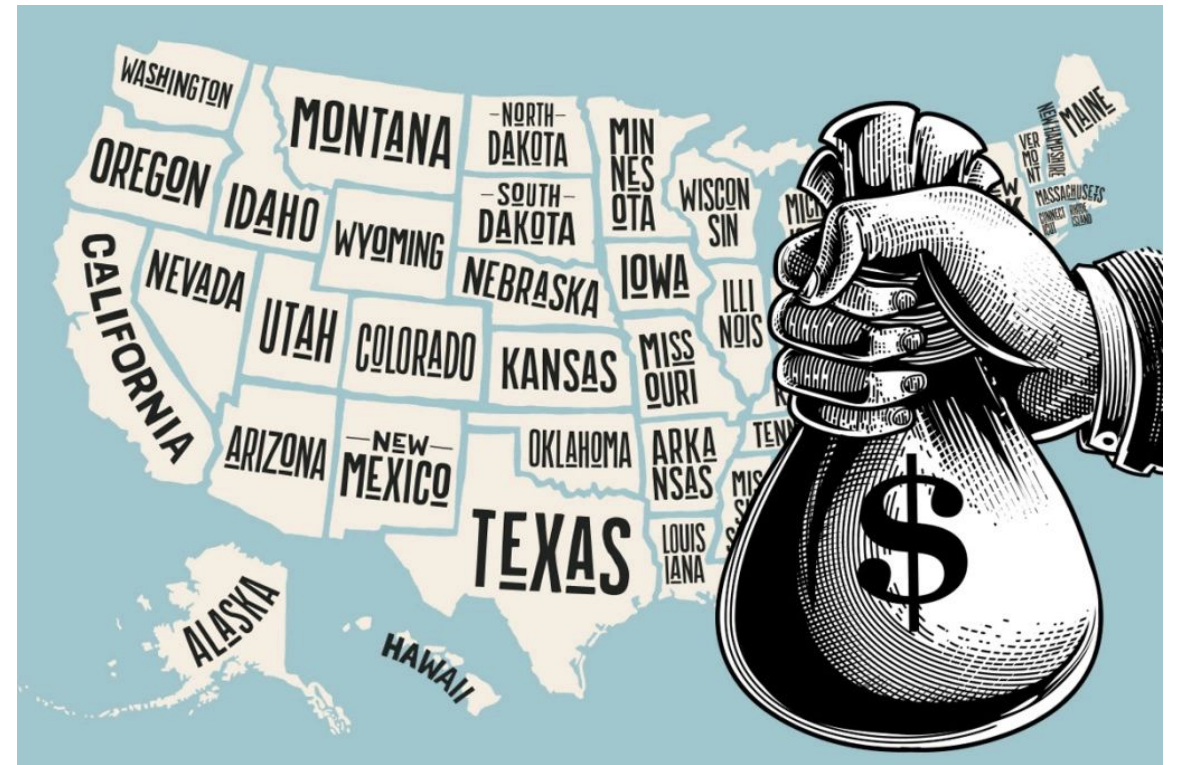
After the New Deal is initiated a power play between Congress and the Court ultimately allowed the national legislature to assume the broad powers under the interstate commerce authority.

FEDERAL GRANT PROGRAM

Congress has dedicated itself to addressing national issues with federal dollars.

Congress collects federal tax revenues and distributes these funds to states to take care of particular national concerns.

This process has different names, such as revenue sharing, cooperative federalism, or fiscal federalism.



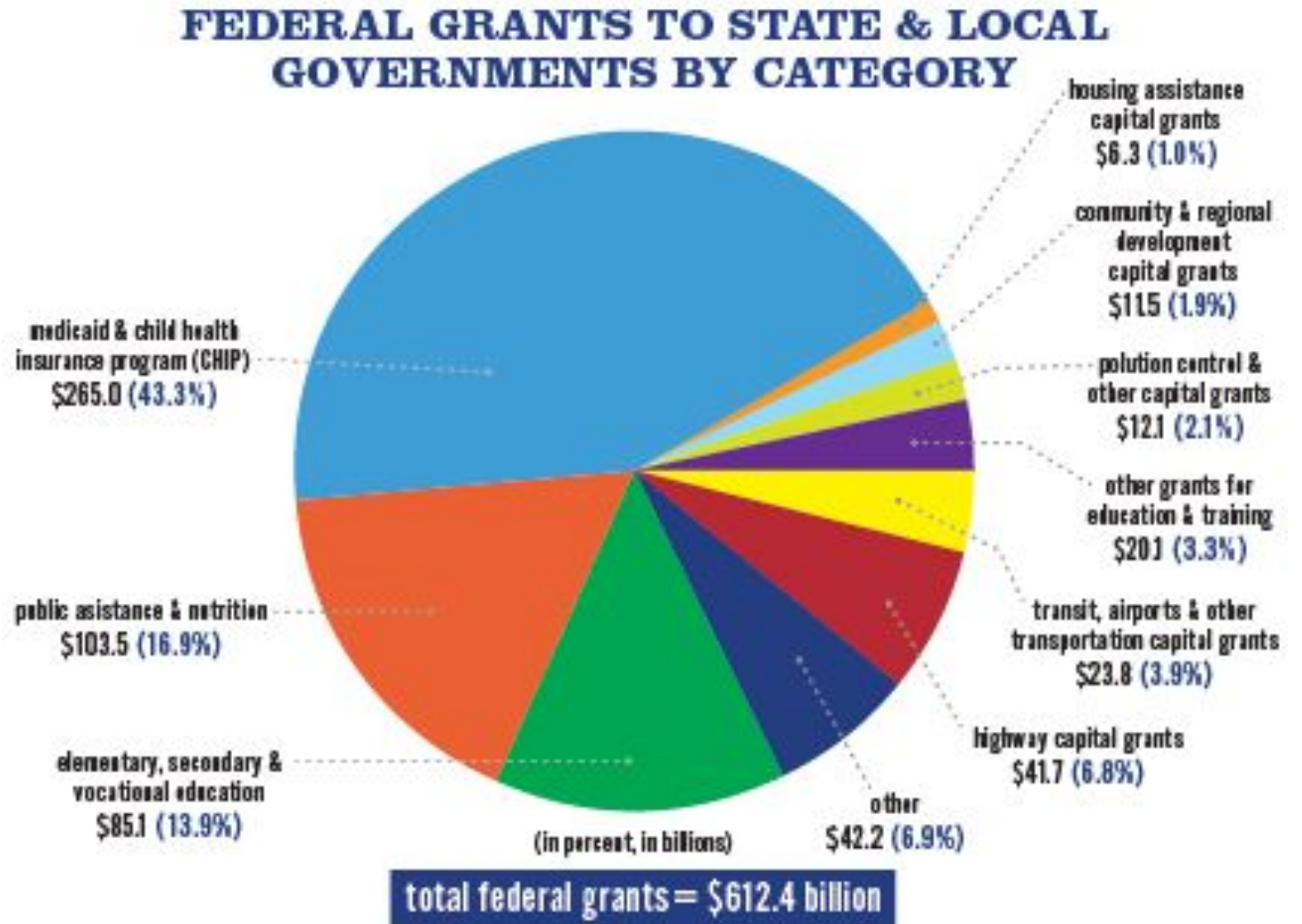
GRANTS-IN-AID

For decades, the federal government has encouraged, and at times required states and localities to address safety, crime, education, and civil rights.

Congress has largely done this by directing federal funds to states that qualify for aid.

This financial aid helps states take care of basic state needs.

Grants come in different forms with different requirements, and sometimes stretch constitutionality.





Head
Start



CATEGORICAL GRANTS

Grants with particular congressional guidelines or requirements.

NATIONAL CONCERNS OF THE 1960S AND THE 1970S

The fight for civil rights and school desegregation, the desire for clean air and clean water, and the concern for crime gained the interest of Washington.

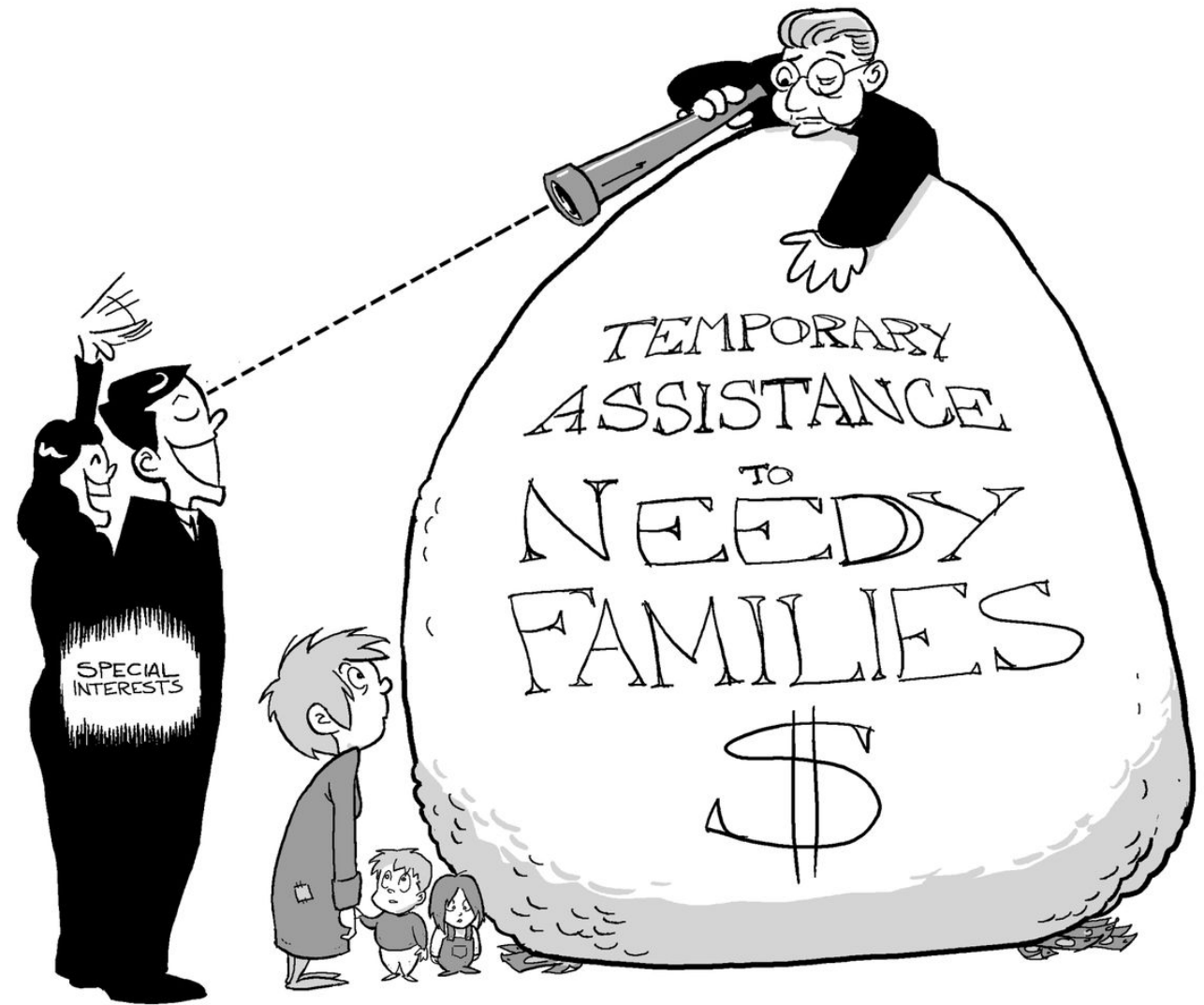
The 1964 Civil Rights Act, withheld federal dollars from schools that did not full desegregate its students.



BLOCK GRANTS

Congress also began to redefine the grants process to give more decision-making power to local authorities.

In 1966, Congress introduced block grants. Block grants differ from categorical grants in they offer large sums of money to states to take care of some large, overarching purpose, without the strings of categorical grants.





aims to give more powers to the state governments.

NEW FEDERALISM

Post-New Deal, conservatives have pushed to reduce federal taxes and return to state and local control over reserved forces.

President Ronald Reagan promised the new recognition of the distinction between the powers granted to the Federal government and those reserved to the people.

GRANTS IN THE 1980S AND BEYOND



States now depend on grants, which creates a dilemma for the federal government.

Building projects (where most grant money goes) are costly for local governments. Can largely affect the region. Strings make grants not so enticing for state governments.

1980's categorical grant for upkeep of highways and ease of national drunk driving issue. Congress offers large sums of money to states if they raise their legal drinking age to 21.

MANDATES



Mandates with strings- States receive federal monies in exchange for following guidelines.

Federal mandates require states to comply with a federal directive sometimes with and without the award of funds.

The legislative, executive, and judicial branches can issue mandates.

Mandates often address civil rights and environmental concerns.

Mandates ensure states and local governments act in certain ways.



DEVOLUTION: "THE ERA
OF BIG GOVERNMENT
IS OVER."

Devolving some of the responsibilities assumed by the federal government over the years back onto the states.

Newt Gingrich- Contract with America- called for an end to intrusive, big government.

With bipartisan support and the support of Pres. Clinton, they managed to pass the Unfunded Mandates Reform Act and Personal Responsibility and Work Opportunity Reconciliation Act.

UNITED STATES V. LOPEZ

Alfonzo Lopez, a 12th grade high school student, carried a concealed weapon into his San Antonio, Texas high school.

He was charged under Texas law with firearm possession on school premises.

The next day, the state charges were dismissed after federal agents charged Lopez with violating a federal criminal statute, the Gun-Free School Zones Act of 1990.





**NO CHILD LEFT BEHIND
"SINGLE LARGEST EXPANSION
OF FEDERAL POWER OVER THE
NATION'S EDUCATION SYSTEM
IN HISTORY"**

This cause caused much consternation between the national government and the states.

With bipartisan support, President George W. Bush signed the bill in 2002.

The law declared that every child can learn and that schools and states should be held accountable.

The act calls for "highly qualified" teacher and the use of proven teaching methods.

Greater emphasis on standardized testing.

Underperforming schools could be reconstituted and administration and teachers could be replaced.