

Articles of Confederation

The first founding document of the United States, which created a loose confederacy of states and allowed each to keep its sovereignty

- Drafted in 1777
- Based on the functioning of the states during the Revolutionary War
- Easy to ratify – states didn't have to give anything up!
- Gave central govt *extremely* limited power

Powers Under the Articles

The Central Govt. Could...

- Declare war/peace
- Sign treaties and appoint ambassadors
- Create a Navy
- Control the Army
- ***Request*** troops from states
- ***Request*** or ***borrow*** money from states
- Decide **some** inter-state disputes

Limits Under the Articles

The Central Govt. Could NOT...

- Create taxes!!!
- Regulate inter-state or international trade
- Establish courts
- Draft troops
- Decide all inter-state disputes
- **Force** the states to do anything

Which means that...

- Whatever the central government said, states could ignore if they didn't like it.
- The United States could not pay back the money it owed from the Revolutionary War.
- States would deal directly with foreign countries to get the best deal on imports/exports.
- The central government had to ASK the states for everything!

Great Debate

The two main parties involved in the debate over the new Constitution

U.S. Constitution

supreme law of the United States, establishes Federal system of government with three branches



- **Federalist** – supporter of the new U.S. Constitution, wants stronger central govt.
- **Anti Federalist** – opponent of the new U.S. Constitution

Federalist

- Articles of Confederation were weak and ineffective.
- National government needed to be strong in order to function.
- Strong national government needed to control uncooperative states.
- Men of experience and talent should govern the nation.
- "Mobocracy" threatened the security of life and property.
- National government would protect the rights of the people.
Constitution and state governments protected individual freedoms without bill of rights.
- In favor of establishing the Constitution with almost any means possible.
- Supported separation of church and state.

Antifederalist

- Articles of Confederation were a good plan.
- Opposed strong central government. Opposed a standing army.
- Strong national government threatened state power.
- Strong national government threatened rights of the common people. Constitution was created by aristocratic elements. Suspected a sinister plot to suppress liberty of the masses.
- Constitution favored wealthy men and preserved their power.
- Constitution lacked a bill of rights.
- Opposed 2/3 ratification plan. (*Articles of Confederation required unanimous consent.*)
- Opposed omitting references to a god.

Constitution Ratified: 1789

Eventually, enough compromises were made to make everyone happy

- **Separation of Powers** – division of powers between the different *branches* of government
- **Checks and Balances** – system where each branch of government has power to exercise some control over the others
- **Rule of Law** – every citizen is subject to the same laws

Ok, but...

The States still weren't sure if the central government could be trusted.

They signed the new Constitution, but they made Congress promise to create a few amendments ASAP.

- **Limited Government** – system where the government's power is limited, not absolute
- **Amendment** – a change to the U.S. Constitution, must be ratified by *2/3 Congress and 3/4 States*

...and the big one...

- **The Bill of Rights** – the first 10 amendments to the U.S. Constitution, purpose was to define specific limits on the powers of the central government

Review: Federalism

* The USA is a **Federal** Government: National, State, Local govts. share/divide powers

- Sometimes the national govt. is responsible
- Sometimes the state govt. is responsible
- Sometimes both the state & national govt. are Responsible
- Sometimes neither level of government is responsible



Enumerated (Delegated) Powers

Definition:

- Specific national govt. Powers stated in the Constitution

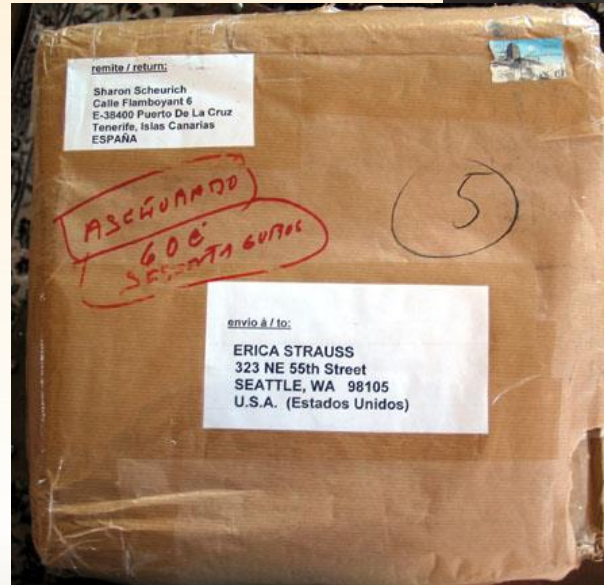


Examples:

(1) Provide military

(2) Print money

(3) Regulate **INTERSTATE** commerce
(trading **BETWEEN** states)



Reserved Powers

Definition:

State Government Powers that are not specifically listed in Constitution

- *From the 10th Amendment*

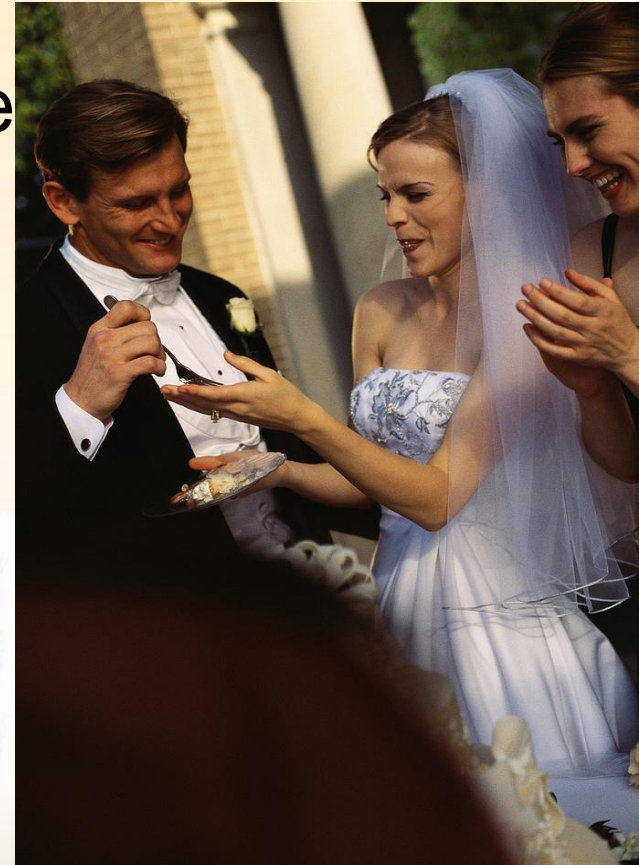
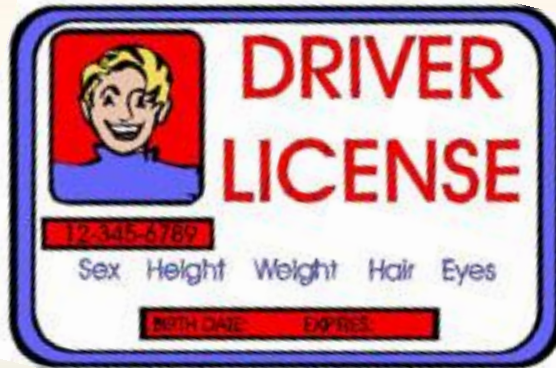
Examples:

(1) Marriage Laws

(2) Driving Laws

(3) Regulate **INTRASTATE**
commerce

*(trading **INSIDE OF** states)*



Concurrent Powers

Definition:

- Powers that National & State govt's share



Examples:

(1) Build Roads



(2) Charge Taxes

(3) Establish courts



Denied Powers

Definition:

- Powers that the U.S. Government does not have

Examples:

(1) Can't deny you the **Writ of Habeas Corpus** → the right to be tried for your crimes in a court of law

(2) US can't grant royalty titles—no Kings, Queens

(3) NO **Ex Post Facto Laws** → laws that can be applied retroactively (after the fact)



Ex Post Facto Law Explained

Yesterday: You wore a striped button-up shirt to school.

Today:

1. The school bans striped shirts in school
2. The school suspends you for wearing a striped shirt yesterday.



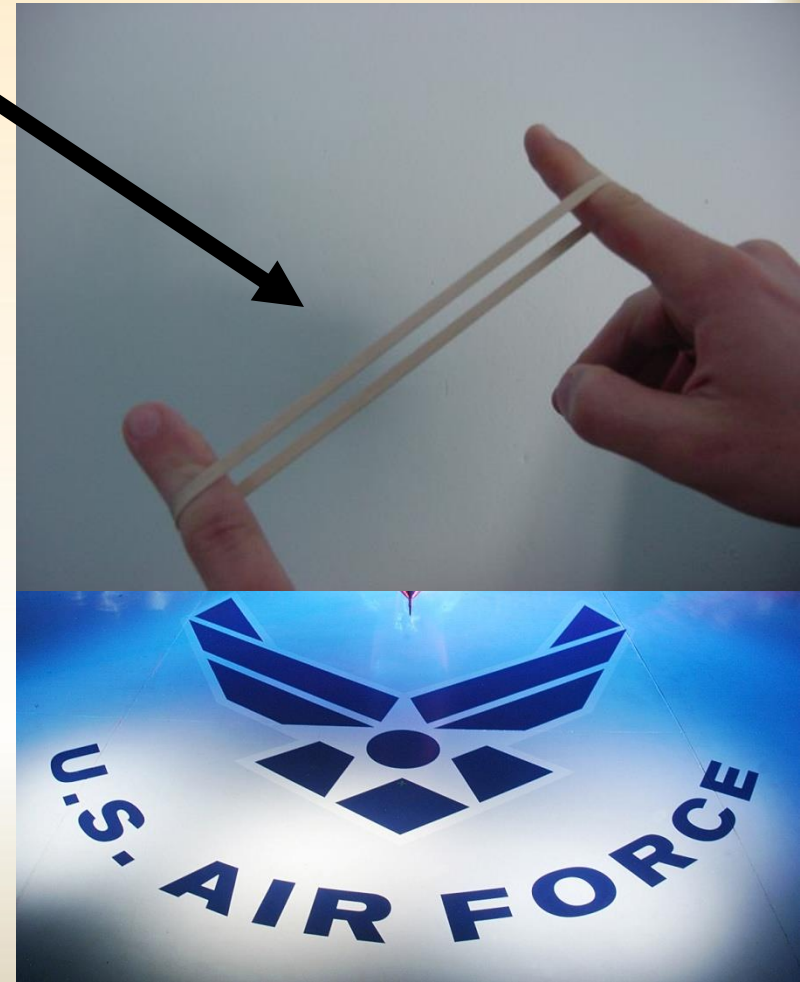
“Necessary and Proper Clause” aka: The “Elastic Clause”

Definition:

- National Govt. can ***FLEXIBLY*** make laws & take actions that help carry out it’s **enumerated powers**
- Clarified in court case → ***McCulloch v. Maryland***

Examples:

- (1) Air Force
- (2) Internal Revenue Service
- (3) No Child Left Behind



Comparing Enumerated & Necessary & Proper Powers

Enumerated Powers:

1. Congress can create Army & Navy (**from Article 1, Section 8**)
2. Congress can regulate interstate commerce (**from Article 1, Section 8**)

Necessary & Proper Powers:

1. Congress created Air Force (***not specifically in the Constitution***)
2. Congress declared the selling of unlicensed narcotics to be illegal (***not specifically in the Constitution***)

Our Rights...

- **Due Process** – government must preserve citizens' rights and follow the correct procedure for finding someone guilty

That means, the government can't issue any...

- **Bill of Attainder** – a legal document declaring someone guilty and stripping them of rights... *without due process!*

This all relates back to the idea of...

- **Popular Sovereignty** – ultimately, the people rule

We have rights, the government has limits, and if we need to we have the ability to tell the government “NO!”

Our Rights...

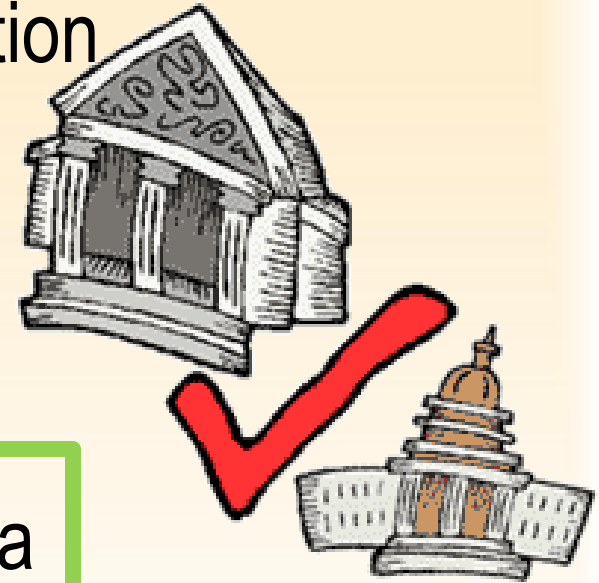
We have the right to “life, liberty, and the pursuit of property...”

...so can the government take your land?

- **Eminent Domain** – government’s power to take your property as long as (1) you are compensated and (2) the government uses the property for the benefit of the public

The Supreme Court

- The only court created by the Constitution
- Has 9 judges, called justices



Judicial Review – Courts can declare a law or action “unconstitutional” (against the constitution)

- Is a “passive” branch of government. The courts can only review cases that are brought before them.

Precedent

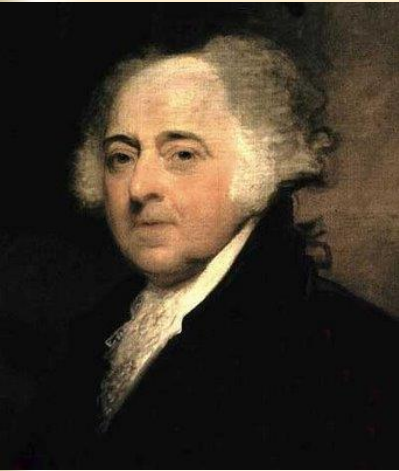
(Precedent literally means “what comes before”)

Precedent → lower courts have to follow the **previous** decisions of higher courts

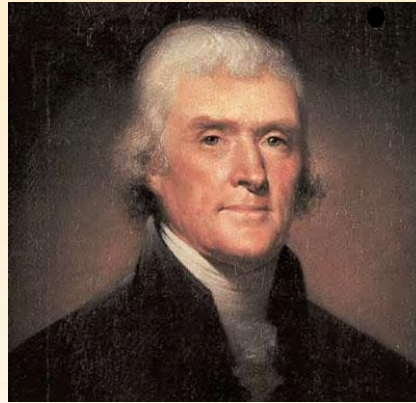
- Higher courts can reverse (change) a decision from a lower court.



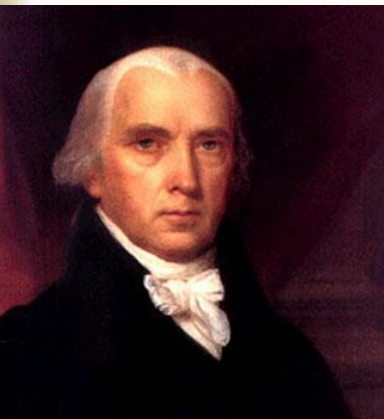
Marbury v. Madison (1803)



John Adams
appointed
judges



Thomas Jefferson
ordered his
Secretary of State
not to deliver the
appointments



James Madison,
Secretary of
State, followed
orders



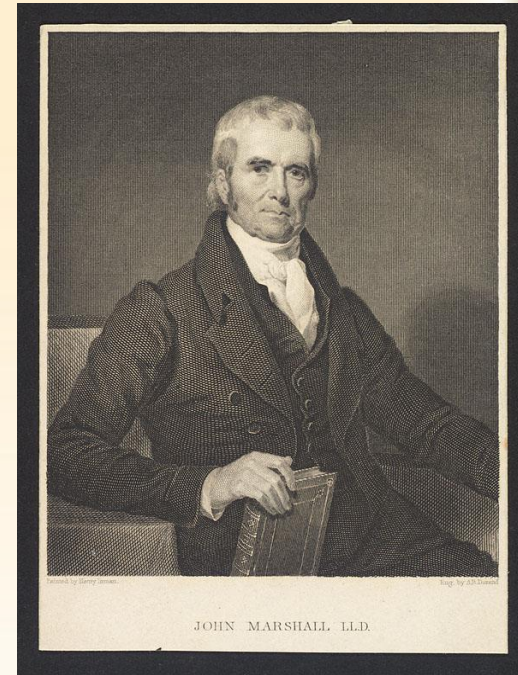
William Marbury,
one of the
Judges, sued
Madison

Marbury v. Madison (1803)

Chief Justice John Marshall said:

- 1. You should to give Marbury his papers.
- 2. We (Supreme Court) can't actually force you to do this, because we're not supposed to be hearing this case.
- 3. The Judiciary Act of 1789 is ***unconstitutional.***

*He knew that he couldn't force the president to deliver the papers, so instead he gave himself the power of ***Judicial Review!****



Stu's Views

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I wish for
the power to
declare laws
unconstitutional.

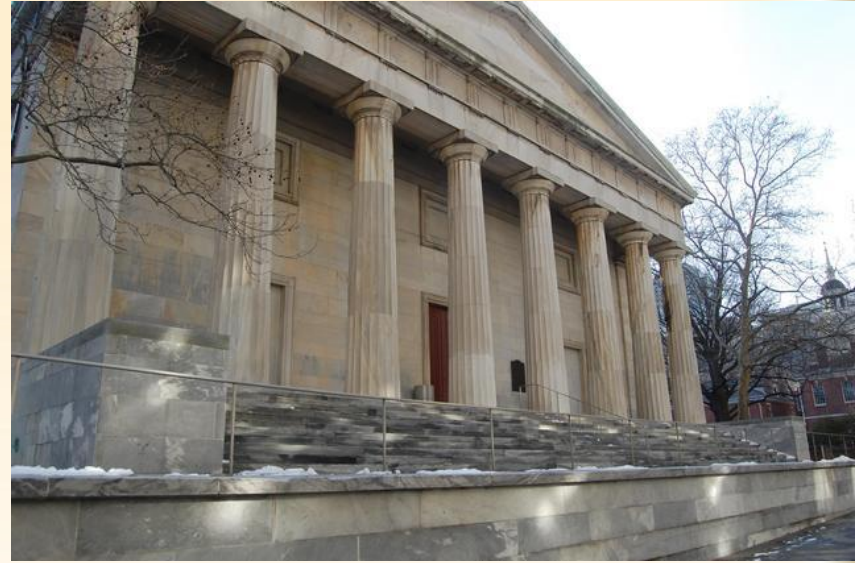


Why waste a
wish on something
you can grant
yourself?



McCulloch v. Maryland (1819)

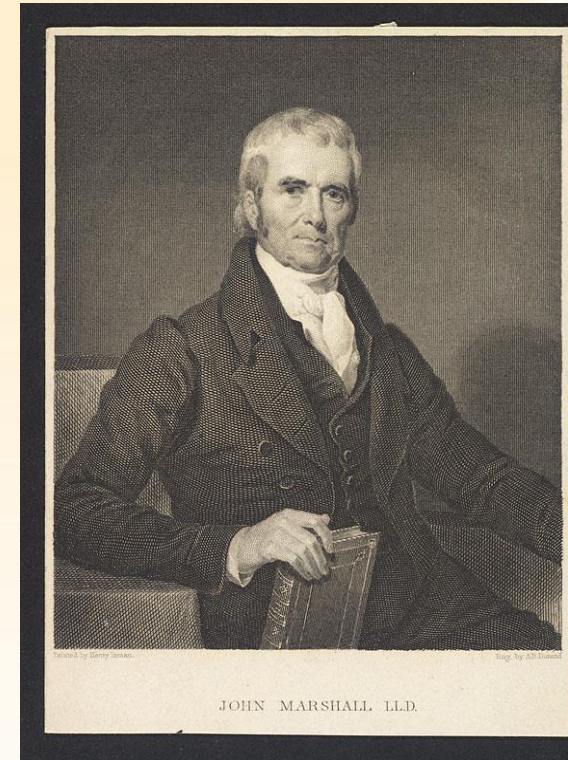
- The Federal Government created a national bank.
- Maryland was upset and tried to tax the branch in Baltimore.
- McCulloch, the manager, refused to pay the tax.



McCulloch v. Maryland (1819)

Chief Justice John Marshall said:

- 1. The Federal Government can have a national bank.
- 2. You (the states) can't tax it.
- 3. The Federal Government is supreme
→ states have to **yield** to the Federal Government whenever the two conflict.



*He believed that a national bank would greatly help Congress control taxes and print money, so he defended the bank by declaring the Federal Govt. **supreme!***

