

Reteaching Activity The Federal System Answer Key

The Federal Role in the Federal System: A crisis of confidence and competence
The Federal Role in the Federal System: An agenda for American federalism: restoring confidence and competence
Urban America and the Federal System
Substate Regionalism and the Federal System
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countries studied include the united states switzerland australia austria and germany as examples of developed industrial societies india and malaysia as examples of multilingual and multicultural federations belgium and spain as examples of emerging federal systems that illustrate bicomunal and asymmetrical approaches and czechoslovakia and pakistan as examples of bicomunal federations that have failed watts compares the interaction of social diversity and political institutions distribution of powers and finances processes contributing to flexibility or rigidity in adjustment extent of internal symmetry or asymmetry degree of centralization and decentralization character of representation in federal institutions role of constitutions and courts provisions for constitutional rights and secession and pathology in federations

federalism a very short introduction provides a concise overview of the principles and operations of federalism from its origins and evolution to the key events and constitutional decisions that have defined its framework while the primary focus is on the united states a comparative analysis of other federal systems including those of australia brazil canada india nigeria and switzerland is provided the role of federal government is explained alongside the critical roles of state and local governments this very short introduction also examines whether federal structures are viable in an era of increasingly centralized and authoritarian style government

the american federal system as we know it today was not planned we did not adopt a constitution at the time of independence or at any time thereafter establishing the structure of a federal system and allocating power between the federal government and the states rather the structure of the american federal system has evolved over a period of time as a result of the supreme court s interpretation of the provisions of the constitution dealing with federal and state power and the court s development of constitutional policy with respect to the nature and operation of the american federal system the american federal system consists of four components 1 state sovereignty and constitutional limitations on state power 2 the powers of the federal government 3 the relationship between the federal government and

the states and 4 the relationship between the states in this writing i will set forth the constitutional doctrine applicable to each of these four components it is my hope that in so doing i will succeed in explaining the structure of the american federal system i will also demonstrate that for the most part constitutional doctrine relating to state and federal power and to the relationship between the federal and state governments and between the states themselves is fairly well settled and such change as may be occurring is mostly around the edges the essential nature of the american federal system as it has evolved from many years of constitutional interpretation by the supreme court remains unchanged there are three basic propositions underlying the american federal system first is the matter of state sovereignty the american federal system as it now exists began with the states in american constitutional theory upon independence the newly formed states succeeded to the power over domestic matters formerly exercised by the british crown and as each new state was admitted to the union it automatically became entitled to exercise this power thus state sovereignty is a given in the american constitutional system and the states do not depend on the federal constitution for the source of their sovereignty the states exercise full sovereignty over domestic matters except to the extent that a particular exercise of such sovereignty is prohibited or restricted by the constitution in terms of allocation of power the constitution restricts state sovereignty over domestic matters in essentially three ways first it provides that certain powers very few in number are exclusively federal powers in the sense that they cannot be exercised by the states at all such as the power to enter into a treaty or the power to coin money or can only be exercised by the states with the consent of congress such as the power to impose a duty of tonnage or to the power to enter into a compact with another state or foreign government second under the supremacy clause there is federal supremacy in the event of a conflict between federal and state power congress then has the power to preempt state regulation over particular issues or over particular areas of activity federal preemption is very important in practice and preemption cases come before the court with considerable frequency it is with respect to preemption that the matter of states rights is most starkly presented and we will see that in the area of preemption both congress and the court have tried to strike a balance between the principle of federal supremacy and the principle of state sovereignty third the court has held that the affirmative grant of the commerce power to congress has a negative or dormant implication and we will see that the negative aspect of the commerce clause imposes some important but precisely defined limitations on the power of the states to regulate and tax interstate and foreign commerce subject only to these limitations the american states have plenary power over all activity that takes place within their boundaries the second proposition is that the dominant feature of the american federal system as regards domestic matters is concurrent power while in constitutional theory the powers of the federal government are only those enumerated in the constitution we know that those powers particularly the power of congress over interstate and foreign commerce have been construed very broadly by the court so that with few exceptions

today virtually any activity is subject to congressional regulation the expansive interpretation of federal power interacts with state sovereignty with the result that to a large extent both the states and congress have enormous regulatory power and both can usually regulate the same activity thus it can be said that the dominant feature of the american federal system as regards domestic matters is concurrent power and for the most part the reach of federal and state power and the resolution of conflicts between federal and state power is essentially settled by existing constitutional doctrine the third proposition is that the states form a national union it cannot be disputed that a primary motivating force behind the calling of the constitutional convention in 1787 and the resulting new constitution was to transform the loose confederation of sovereign states into one nation an indestructible union composed of indestructible states and to constitute the citizens of the united states as one people the provisions of article iv section 1 dealing with full faith and credit to judgments and public acts of sister states and article iv section 2 dealing with privileges and immunities of the citizens of sister states and interstate rendition are specifically directed toward this end we will discuss both provisions in our discussion of the relationship between the states themselves in addition precisely because the united states is a federal union there is a generic right of citizens to travel from one state to another finally the constitution requires that congress admit new states to the union on an equal footing with the same attributes of sovereignty as were possessed by the original thirteen states and that the united states guarantee to each state a republican form of government and to protect the states against invasion or domestic violence for the last decade or so there has been considerable academic debate on the subject of federal and state power revolving around the contention that the supreme court should curtail the range of federal power and to that extent avoid possible interference with the exercise of state power on the court itself particularly under the leadership of former chief justice william h rehnquist there have been expressions of concern about the expansion of federal power operating to diminish traditional areas of state authority as we will see there have been two cases one in 1995 and one in 2000 where the court has ruled against the exercise of federal power under the commerce clause however these were very narrow decisions that did not undercut the line of growth of decisions expanding the range of federal power and in the court s most recent decision dealing with the exercise of federal power it appeared that the court was coming down even more strongly on the side of federal power when it held that so long as the class of activities that congress was regulating came within the reach of federal power it was not necessary to show that congress could independently regulate the local activity that came within that class of activities in my opinion the academic debate on the subject of federal and state power is truly academic and i have no interest in participating in it again my purpose in this writing is to explain the structure of the american federal system and to demonstrate that the essential nature of the american federal system as it has evolved from many years of constitutional interpretation by the supreme court

has not changed and is not likely to do so

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