

STUDY GUIDE  **Chapter 3, Section 4**

For use with textbook pages 83–90.

THE AMENDMENTS

KEY TERMS

- prior restraint** Government censorship of information before it is published or broadcast (page 84)
- probable cause** A reasonable basis to believe a person or premises is linked to a crime (page 85)
- search warrant** An order signed by a judge describing a specific place to be searched for specific items (page 85)
- arrest warrant** An order signed by a judge naming the individual to be arrested for a specific crime (page 85)
- due process of law** Principle in the Fifth Amendment stating that the government must follow proper constitutional procedures in trials and in other actions it takes against individuals (page 86)
- eminent domain** The power of the government to take private property for public use (page 86)
- lame duck** An outgoing official serving out the remainder of a term after retiring or being defeated for reelection (page 90)
- poll tax** Money paid in order to vote (page 90)

DRAWING FROM EXPERIENCE

Have you ever heard someone say “It’s a free country”? Americans owe many of their freedoms to the first ten amendments to the Constitution.

This section focuses on the amendments to the United States Constitution.

ORGANIZING YOUR THOUGHTS

Use the graphic organizer below to help you take notes as you read the summaries that follow. Think about the categories into which the Constitutional amendments fall.

The Bill of Rights	Civil War Amendments	20th Century Amendments

STUDY GUIDE (continued)

Chapter 3, Section 4

READ TO LEARN

☐ Introduction (page 83)

In 1791 Americans ratified the Constitution's first ten amendments, which are called the Bill of Rights.

☐ The Bill of Rights (page 83)

The First Amendment protects the right of Americans to worship as they please or to have no religion at all. The First Amendment also protects the freedoms of speech and of the press. As a result, for example, the American press is not subject to *prior restraint*, under which government must approve information before it is published or broadcast. However, freedom of speech and the press has limits.

Spoken or printed lies intended to damage a person's reputation are not protected. In addition, the First Amendment does not protect language that endangers the safety of the nation or individuals. The First Amendment also protects the right to meet in groups, to sign petitions, and to send letters to officials.

The Second Amendment ensures citizens and the nation the right to security. Some people interpret the amendment to mean that they have the right to own firearms.

The Third Amendment prohibits the government from forcing people to provide shelter for soldiers in their homes except under conditions spelled out by law.

The Fourth Amendment protects the right to privacy. Authorities must have a specific reason to search a place or to seize evidence or people. To be lawful, a search or an arrest must be based on *probable cause*. This means that the police must have a reason to believe the person or place is linked to a crime. A search or an arrest usually requires a *search warrant* or an *arrest warrant*.

The Fifth Amendment states that no person can be tried unless a grand jury determines enough evidence exists to justify a trial. The amendment also assures that a person who is found innocent may not be tried again for the same offense. In addition, a person cannot be forced to testify against himself or herself. Finally, the Fifth Amendment states that the government may not deprive any person of life, liberty, or property without *due process of law*. This means that the government must follow proper legal procedures in trials and other actions against individuals. The amendment also defines *eminent domain*—the power of government to take private property for public use.

The Sixth Amendment gives individuals charged with federal crimes the right to a speedy and public trial by an impartial jury. It also gives accused persons the right to know the charges against them, to hear and question witnesses, to compel witnesses to testify in their behalf, and to be defended by an attorney.

The Seventh Amendment gives a person the right to a jury trial in federal court to settle disputes about property.

The Eighth Amendment protects against cruel and unusual punishment and excessive bail—money or property the accused deposits with the court to gain release from jail until trial.

The Ninth Amendment states that the people retain all rights not spelled out in the Constitution.

The Tenth Amendment establishes that whatever powers the Constitution does not give to the national government or deny to the states belong to the states or to the people.

STUDY GUIDE (continued) **Chapter 3, Section 4**

1. Describe three freedoms protected by the First Amendment.

Other Amendments (page 87)

The *Eleventh Amendment* (passed in 1795) prohibits a state from being sued in federal court by citizens of another state or another country. The *Twelfth Amendment* (1804) corrected problems that arose in elections by providing that the Electoral College use separate ballots for president and vice president.

The Civil War Amendments include the Thirteenth, Fourteenth, and Fifteenth. The *Thirteenth Amendment* (1865) outlaws slavery. The *Fourteenth Amendment* (1868) was intended to protect the legal rights of freed slaves. Today it protects the rights of citizenship by preventing states from depriving any person of life, liberty, or property without due process. The *Fifteenth Amendment* (1870) prevents the government from denying any person's right to vote on the basis of race.

Twentieth century Amendments deal with a range of subjects that reflect changes in modern America. The *Sixteenth Amendment* (1913) gives Congress the power to levy individual income taxes. The *Seventeenth Amendment* (1913) states that the people, not state legislators, elect United States senators. The *Eighteenth Amendment* (1919) prohibited the manufacture, sale, or transportation of alcoholic beverages. In 1933 the *Twenty-first Amendment* repealed the Eighteenth. The *Nineteenth Amendment* (1920) guaranteed women the right to vote. The *Twentieth Amendment* (1933) set new dates for Congress to begin its term and for the inaugurations of the president and vice president. Before this amendment, outgoing officials were *lame ducks*, or had little influence, for several months between the election and when new officials took office. The *Twenty-second Amendment* (1950) limits a president to a maximum of two elected terms. The *Twenty-third Amendment* (1961) allows citizens living in Washington, D. C., to vote for president and vice president. The *Twenty-fourth Amendment* (1964) prohibits *poll taxes*—money paid in order to vote. The *Twenty-fifth Amendment* (1967) establishes a process for the vice president to take over the leadership of the nation when a president is disabled. The *Twenty-sixth Amendment* (1971) lowered the voting age to 18. The *Twenty-seventh Amendment* (1992) makes congressional pay raises effective during the term following their passage.

2. What group of Americans were the Civil War Amendments intended to protect? Explain your answer.

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Textbook

October 20th

CHAPTER SUMMARY * * * * * **CHAPTER 4** * * *

The Federal System

★ NATIONAL AND STATE POWERS * * * * *

The U.S. Constitution divides authority among the national government, the states, and the people.

POWERS GRANTED BY THE CONSTITUTION TO THE NATIONAL GOVERNMENT	
Powers	Examples
Expressed, or enumerated, powers are stated in the Constitution.	the power to levy and collect taxes, to coin money, and to regulate commerce
Implied powers are the unstated powers needed in order to carry out expressed powers. The "elastic clause" gives Congress the authority to make all laws that are "necessary and proper" to carry out its other powers.	the power to draft people into the armed forces in order to raise an army and a navy
Inherent powers are those that the national government may exercise simply because it is a government.	the power to control immigration

Reserved powers are the unlisted powers that the Constitution says belong strictly to the states. They include any right not delegated to the national government, reserved to the people, or denied to states by the Constitution. Reserved powers do not give states the right to make laws that conflict with the Constitution. The supremacy clause says that the law of the United States Constitution shall be the supreme law of the land.

The federal government and the states also have concurrent powers, which both have and each exercises independently, such as maintaining courts. Finally, the Constitution specifically denies some

powers to government. For example, the national government cannot interfere with the ability of states to carry out their responsibilities. One of many powers denied to states is the right to coin money.

The Constitution obliges the national government to guarantee states a republican form of government and to protect them from invasion and domestic violence. The national government also cannot take territory from an existing state to create a new one without permission. If conflicts arise between national and state governments, the federal courts settle the dispute.

★ RELATIONS AMONG THE STATES * * * * *

The Constitution defines relations among the states. Article IV requires that the states:

- give "full faith and credit" to the laws, records, and court decisions of other states;
- give one another's citizens all the "privileges and immunities" of its own citizens;
- extradite—that is, return fugitives who flee across state lines.

Full faith and credit means that each state must recognize the civil laws and legal proceedings of

other states. However, one state cannot enforce another state's criminal laws.

Mutual privileges and immunities prevent one state from discriminating unreasonably against citizens of another. Examples are the right to pass through or live in any state. This clause does not prohibit reasonable distinctions, such as treating nonresidents differently with respect to tuition payments in state colleges.

The Constitution requires states to settle disputes among themselves without the use of force. They

(continued)

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CHAPTER 4 SUMMARY CONTINUED

RELATIONS AMONG THE STATES *(continued)*

often do this through interstate compacts, or written agreements that must be approved by Congress. The Supreme Court has sole jurisdiction when a dispute between states results in a lawsuit.

Congress has the power to admit new states, with two restrictions. Congress must respect territorial integrity, and the president can veto any acts of admission

with which he disagrees.

The admission procedure begins with an enabling act. This enables the people of a territory to draft a constitution. If Congress approves the constitution, it passes an act admitting the new state. Once admitted, each state is the equal of every other state with respect to privileges and obligations.

★ DEVELOPING FEDERALISM ★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★

Two schools of thought exist on how federalism should operate. The states' rightists believe:

- Any doubts concerning whether a power is delegated to the national government or reserved to the states should be settled in favor of the states.
- The Constitution is a compact among the states which created the national government and gave it narrowly defined powers.
- State governments are better able to resolve problems because they better reflect the people's wishes.

the national government has grown in size and power. Three constitutional provisions, in particular, have contributed to this expansion of the powers of the federal government:

- the war powers
- the power to regulate interstate commerce
- the power to tax and spend

The nationalists believe:

- Delegated powers of the national government should be expanded as necessary to solve social and economic problems.
- People, not the states, created the national government and did not intend it to be subordinate.
- The national government represents all the people; each state speaks for only a part of the national population.

War powers expanded the national government's influence; in the modern world, the strength of the economy and the educational system affect a nation's military might. The Supreme Court has consistently interpreted commerce to include activities concerned with production, buying, selling, and transporting of goods and allowed Congress to extend its authority based on its power to regulate interstate commerce. For example, in 1964 the Court ruled that Congress could prohibit racial discrimination in hotels and restaurants because it hindered travel and therefore restricted interstate commerce.

Congress has used its power to tax and spend to expand government regulation of business. Heavy taxes on certain dangerous products have made them too expensive to make and sell.

★ FEDERALISM AND POLITICS ★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★★

A policy is a stated course of action, a conscious, deliberate way of handling an issue. Federalism affects public policy, or government courses of action, in two ways: it affects how and where new policies are made, and it sets limits on government policymaking.

Federalism encourages state and local governments to try new policies such as sunshine laws and sunset laws. Sunshine laws prohibit public officials from

holding meetings that are not open to the public. Sunset laws require periodic checks of government agencies to see if they are still needed.

Federalism makes it possible for rival parties to win elections at state and local levels, and lessens the risk of one party monopolizing power. It also creates political bases from which the opposition party can develop new policies to challenge the majority.

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CHAPTER SUMMARY Activity

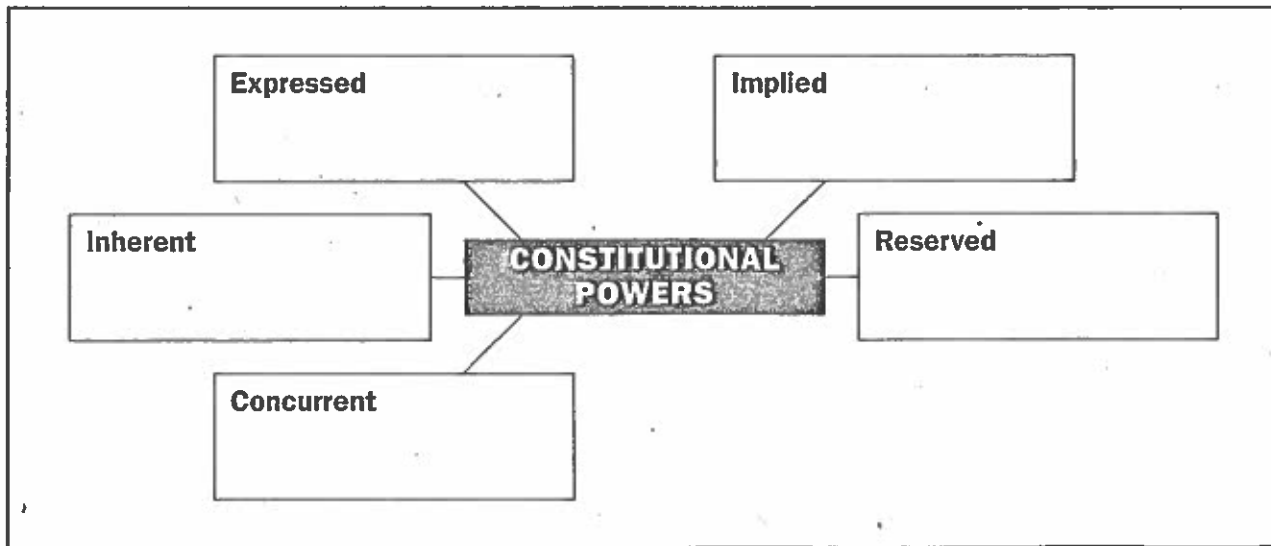


The Federal System

DIRECTIONS Match each term in Column A with the statement that best applies to it in Column B. Write the correct letters in the spaces provided.

COLUMN A	COLUMN B
_____ 1. elastic clause	A. The powers of the federal government should be expanded as necessary to solve problems.
_____ 2. supremacy clause	B. States do not have the right to make laws that conflict with the Constitution.
_____ 3. states' rights	C. Public officials may not hold meetings closed to the public.
_____ 4. nationalist	D. Federal agencies are regularly checked to see if they are still needed.
_____ 5. sunshine law	E. Congress has authority to make all laws "necessary and proper" to carry out its other powers.
_____ 6. sunset law	F. The states created the national government and gave it narrowly defined powers.

Organizing Information Write each power from the fact bank under the appropriate heading.



- regulate public schools
- regulate interstate commerce
- draft people into the armed forces
- control immigration
- maintain courts

Critical Thinking Answer the following question on a separate sheet of paper.

7. Recently, some people have urged Congress to regulate the Internet. If Congress did, what kind of power would it be exercising? Explain.

STUDY GUIDE Chapter 4, Section 1

For use with textbook pages 95–102.

NATIONAL AND STATE POWERS

KEY TERMS

delegated powers Powers the Constitution grants or delegates to the national government (page 95)

expressed powers Powers directly stated in the Constitution (page 95)

implied powers Powers that the government requires to carry out the expressed constitutional powers (page 96)

elastic clause A statement in Article I, Section 8 of the Constitution that gives Congress the right to make laws "necessary and proper" to carry out the laws expressed in the other clauses of Article I (page 96)

inherent powers Powers that the national government may exercise simply because it is a government (page 96)

reserved powers Powers that belong strictly to the states (page 96)

supremacy clause The statement in Article VI of the Constitution establishing that the Constitution, laws passed by Congress, and treaties of the United States "shall be the supreme Law of the Land" (page 97)

concurrent powers Powers that both the national government and the states have (page 97)

enabling act The first step in the state admission procedure (page 99)

DRAWING FROM EXPERIENCE

At your school, administrators run the entire school. Yet each teacher runs his or her classroom. The federal system of government is set up in a similar way.

This section focuses on the powers of the central and state governments.

ORGANIZING YOUR THOUGHTS

Use the graphic organizer below to help you take notes as you read the summaries that follow. Think about examples of the powers granted to the national government.

Expressed Powers	Implied Powers	Inherent Powers

STUDY GUIDE (continued) **Chapter 4, Section 1**

READ TO LEARN

Introduction (page 95)

National and state powers have been continually redefined through conflict, compromise, and cooperation since the earliest days of the nation.

The Division of Powers (page 95)

The Constitution divided government authority by giving the national government certain specified powers and reserving other powers to the state or the people. Additional powers are shared by the national and state governments. Some powers are denied to all levels of government.

1. In what three ways did the Constitution divide government authority?

National Powers (page 95)

Collectively, the powers that the constitution grants to the national government are called *delegated powers*. These powers are divided into the following three types:

- A. *Expressed powers* are directly stated in the Constitution. They include the powers to levy and collect taxes, to coin money, to make war, to raise an army and navy, and to regulate commerce among the states.
- B. *Implied powers* are powers the national government needs to carry out the powers that are expressly defined in the Constitution. For example, the power to draft people into the armed forces is implied by the power given to the government to raise an army and a navy. The basis for the implied powers is in Section 8 of Article I. This is often called the *elastic clause*.
- C. *Inherent powers* are those the national government may exercise simply because it is a government. For example, the national government must establish diplomatic relations with other nations.

2. List five expressed powers of the national government.

STUDY GUIDE (continued) **Chapter 4, Section 1**

☐ The States and the Nation (page 96)

Reserved powers belong strictly to the states. They include powers not delegated to the national government, or denied to the states by the Constitution. The regulation of public school systems is one example.

According to the *supremacy clause* of the Constitution, national law is supreme over state law. This means that no state constitution or state or local law may conflict with national law.

Concurrent powers are those powers that both the national government and the states have. Examples are the powers to tax, to maintain courts, and to define crimes.

Denied powers are those denied to government. For example, the national government cannot tax exports. The Constitution denies several powers to the states. For example, no state can coin money.

3. What is the difference between reserved powers and concurrent powers?

☐ Guarantees to the States (page 98)

The Constitution requires the national government to:

- A. guarantee each state a republican form of government. Congress accomplishes this by allowing senators and representatives from each state to take their seats in Congress.
- B. protect states from invasion and domestic violence. The national government has extended its definition of domestic violence to include natural disasters such as floods. When a disaster strikes, the president often orders troops to aid disaster victims. The government also offers victims low-cost loans.
- C. respect the territorial integrity of each state. In other words, the national government cannot use the land of an existing state to create a new state unless the state legislature gives its permission.

4. What three guarantees does the national government owe the states?

☐ Admission of New States (page 99)

The Constitution gives Congress the power to add new states to the union. The procedure for admission begins in Congress. It passes an *enabling act*, which enables the people of a territory interested in becoming a state to prepare a constitution. The completed and approved constitution is submitted to the Congress. Then Congress passes an act admitting the state.

Congress or the president may impose certain conditions before admitting a state. An example is requiring changes in the constitution submitted by the territory.

Once admitted to the Union, each state is equal to every other state. It has the right to control its internal affairs and has the same privileges and obligations as other states.

STUDY GUIDE (continued)

Chapter 4, Section 1

5. What three steps make up the process of admitting a new state?

☐ The National Governors' Association (page 101)

The National Governors' Association (NGA) supports federalism by helping governors in state policy making and in influencing national policy. In the 1970s, the NGA focused on common problems such as organizing intergovernmental relations. Beginning in the 1980s, however, the governors shifted their attention to national policy concerns such as educational, welfare, and health-care reforms. By joining together, the governors played a part in making national policy.

In addition to the support of the NGA, states perform the following services for national government:

- A. Conducting and paying for elections of all government officials
- B. Playing a key role in the process for amending the Constitution

6. What two services do states perform for the national government?

☐ The Court as Umpire (page 102)

Conflicts frequently arise between national and state governments. The federal court system plays a key role in settling these conflicts. The Supreme Court ruled on the question of national versus state power for the first time in the 1819 case of *McCulloch v. Maryland*. The Court held that the national government is supreme in the instance of a conflict between the national government and a state government. In many rulings on this issue since *McCulloch*, the Court's view of the division of powers between the national and state governments has shifted. Since the 1990s, the Court has generally favored states' power. Increasing power of federal judges allows them to serve as umpires of federalism as well, by opening nearly every action by state and local officials to the judges' questioning.

7. What precedent did the Supreme Court set in *McCulloch v. Maryland*?

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#1-5

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STUDY GUIDE  **Chapter 4, Section 2**

For use with textbook pages 103–105.

RELATIONS AMONG THE STATES

KEY TERMS

- extradite** To return to the state a criminal or fugitive who flees across state lines (page 103)
- civil law** Law relating to disputes between individuals, groups, or with the state (page 103)
- interstate compact** A written agreement between two or more states (page 105)

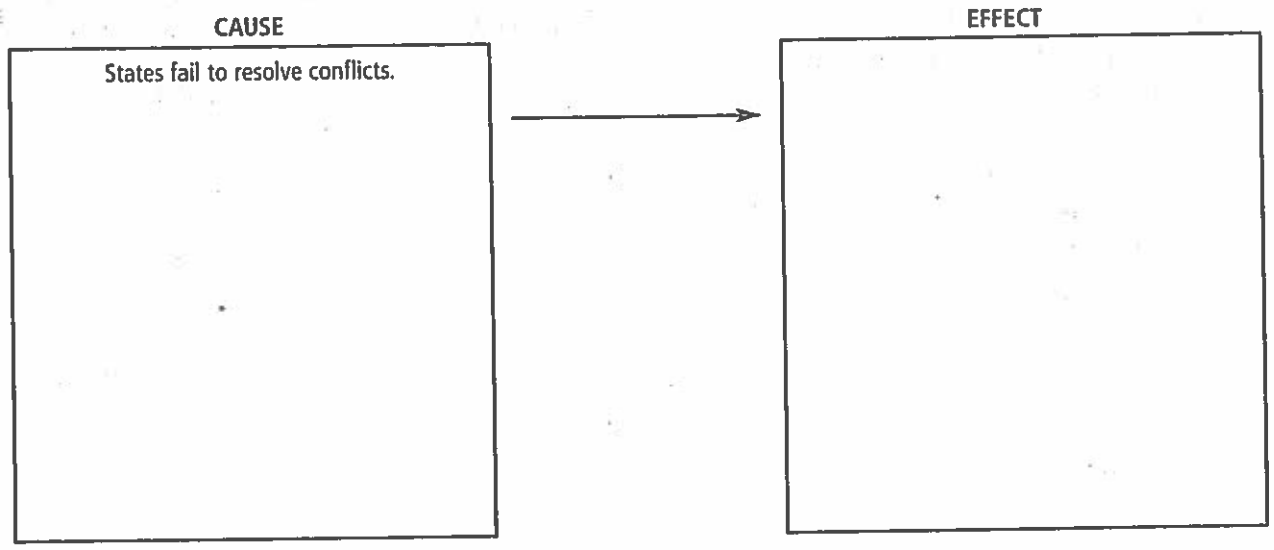
DRAWING FROM EXPERIENCE

Have you ever shared a room? How did you avoid quarrels with your roommate? You probably learned to cooperate in order to keep the peace. States also have to cooperate to avoid conflicts and jealousies.

This section focuses on relations among the states.

ORGANIZING YOUR THOUGHTS

Use the graphic organizer below to help you take notes as you read the summaries that follow. Think about what happens when states fail to resolve their conflicts themselves.



STUDY GUIDE (continued) **Chapter 4, Section 2**

READ TO LEARN

Introduction (page 103)

The Constitution set legal ground rules for relations among the states. These rules help to ensure cooperation.

Interstate Relations (page 103)

Article IV of the Constitution requires that each state:

- A. give "full faith and credit" to the public acts, records, and judicial proceedings of every other state. Each state must recognize the laws and legal proceedings of the other states. *Public acts* refers to civil laws passed by the state legislatures. *Records* means documents such as mortgages, deeds, leases, wills, marriage licenses, car registrations, and birth certificates. *Judicial proceedings* refers to various court actions, such as judgments to pay debts.
- B. provide all the "privileges and immunities" of its citizens to the citizens of every other state. These privileges and immunities include rights to pass through or live in any state; to use the courts; to make contracts; to buy, sell, and hold property; and to marry. On the other hand, states may reasonably discriminate against residents of other states. For example, nonresidents do not have the same right to attend public institutions such as state universities. These institutions usually charge higher tuition to nonresident students.
- C. *extradite*—that is, return to another state—criminals and fugitives who flee across state lines to escape justice.
- D. settle its differences with other states without using force. The main way states do this is through *interstate compacts*. These are written agreements between two or more states. Congress must approve interstate compacts, and the Supreme Court enforces its terms. States use compacts to deal with matters such as air and water pollution, pest control, toll bridges, and transportation.
- E. sue other states before the Supreme Court if disputes cannot be resolved in any other way. For example, Arizona, California, and Colorado have gone to the Court in disputes over water from the Colorado River. Other suits have involved sewage from one state polluting the water in another state. Still other cases arise over boundary disputes.

1. Describe two ways states settle their disputes.

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1-5

Textbook

October 23rd

STUDY GUIDE Chapter 4, Section 3

For use with textbook pages 106–110.

D EVELOPING FEDERALISM

KEY TERMS

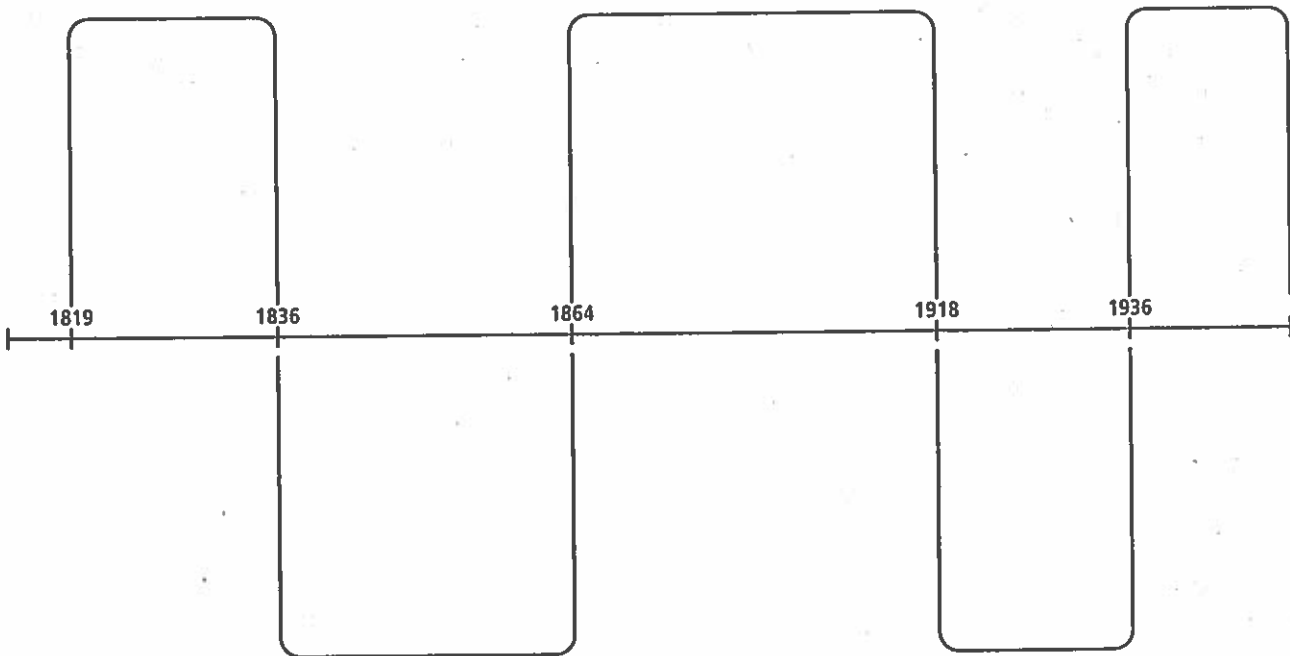
- states' rights position** An opinion that favors state and local action to deal with problems (page 106)
- nationalist position** An opinion that favors national action to deal with problems (page 106)
- income tax** The tax levied on individual and corporate earnings (page 108)

DRAWING FROM EXPERIENCE

Recall a book you read when you were very young. How did you feel about the story then? Would you feel differently about it if you read it today? You probably would. In the same way, many Americans, including members of the Supreme Court, have changed their views on federalism over the years. This section focuses on the different views of federalism among government leaders.

ORGANIZING YOUR THOUGHTS

Use the time line below to help you take notes as you read the summaries that follow. Think about the view of federalism that the Supreme Court held during different periods in American history.



STUDY GUIDE (continued) Chapter 4, Section 3

READ TO LEARN

Introduction (page 106)

The roles of state and national government officials have been defined during more than 200 years of developing federalism.

States' Rightists Versus Nationalists (page 106)

Throughout American history, people have taken two very different views of how federalism should operate.

The States' Rights Position holds that the Constitution is a compact among the states. States' rightists argue that the states created the national government and gave it only limited powers. Any doubt about whether a power belongs to the national government or is reserved for the states should be settled in the states' favor. Furthermore, they believe that all powers of the national government should be narrowly defined because the national government is an agent of the states.

The Supreme Court accepted this view under Chief Justice Roger B. Taney (1836–1864). The Court often supported states' rights against powers of the national government. The same was true from 1918 to 1936. During that time the Court ruled federal laws unconstitutional that attempted to regulate child labor, industry, and agriculture in the states.

The Nationalist Position argues that the people, not the states, created the national government and the states. Therefore, the national government is not subordinate to the states. Nationalists believe the powers expressly delegated to the national government should be expanded as necessary to carry out the people's will. They look to the national government to take the lead in solving major social and economic problems facing the nation. The Supreme Court established the nationalist position in 1819 in *McCulloch v. Maryland*, and the position gained more ground during the Great Depression in the late 1930s. As the Depression grew worse, the Court supported the expansion of national government's powers in order to deal with the nation's terrible economic woes.

1. During what two periods did the Supreme Court accept the states' rights position on federalism?

Growing National Government (page 107)

The growth of the national government's powers has been based on the following three constitutional provisions:

War Powers The power to wage war has greatly expanded the federal government's power because national defense depends on such varied factors as the strength of the educational system and the condition of the economy.

Commerce Power The Constitution gives Congress the authority to regulate commerce. The courts today interpret the term *commerce* to mean nearly all activities concerned with the production, buying, selling, and transporting of goods. For example, Congress passed the Civil Rights Act of 1964 forbidding racial discrimination in public places such as hotels and restaurants. The Supreme Court upheld the law

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STUDY GUIDE (continued)

Chapter 4, Section 3

because the justices reasoned that racial discrimination restricts people's travel and thus the flow of commerce. So Congress may pass laws against racial discrimination.

Taxing Power Congress has the power to raise taxes and spend money to promote the general welfare. The income tax levied on individual earnings has become the major source of money for the national government. Congress has used its taxing power to increase the national government's power in two ways:

- A. **To regulate businesses** For example, Congress has put such high taxes on certain products that it is unprofitable for companies to make them.
- B. **To influence states to adopt certain kinds of programs** Federal law allows employers to deduct from their federal taxes any state taxes they pay to support state unemployment programs. As a result, all the states have set up their own unemployment programs.

2. How did the Supreme Court link the power to regulate commerce with civil rights?

Federal Aid to States (page 109)

Congress has developed two major ways to influence the policies of state and local governments. The first is by providing money through *federal grants*, or aid to the states to be spent for a specific purpose. For example, in 1862, Congress gave nearly 6 million acres of public land to the states for support of colleges. Since the 1950s, federal aid to state and local governments has increased tremendously. These grants often help reduce inequalities between wealthy and less wealthy states. However, many federal aid programs provide money only if the state and local governments are willing to meet conditions set by Congress.

Since the mid-1960s, Congress has also gained authority over state governments through *preemption*, the power to assume responsibility for a state function. For example, in 1990 Congress passed the Nutritional Labeling and Education Act to establish national food labeling standards, taking away the power of the states to set their own requirements. Preemption laws limit the authority of state and local governments through restraints and mandates. A *restraint* is a requirement that prohibits a local or state government from exercising a certain power. A *mandate* is an order requiring states to provide a service or activity in a way that meets standards set by Congress. For example, the Americans With Disabilities Act required state and local governments to better accommodate the physically challenged. Advocates of states' rights dislike preemption laws because they can interfere with the laws or priorities of state and local governments. Also, the states, not Congress, are required to pay for new mandates.

3. What are the ways in which Congress can influence the policies of state and local governments?
