

Separation of Powers and Federalism

Federalism & Congressional Powers

I. The Constitution

- A. The Constitution is an act of the people. Therefore, it is supreme over the individual states' beliefs and desires, and their abilities to regulate.

II. Sources of Congressional Power

A. Article I, Sec. 8:

1. Necessary and Proper Clause

- a. Congress has 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 any Department or Officer thereof." – U.S. Const. Art. I, § 8, Cl. 18
- b. The Constitution is a list of enumerated powers, but it's impossible to enumerate everything, which is why we have the Necessary and Proper Clause.
- c. Not every Congressional power is enumerated in the Constitution → they can decide it is necessary and proper even if it's not in there
- d. This clause gives the *means* to bring about the *ends* enumerated in the Constitution.

2. Tax and Spend Clause

- a. "The Congress shall have the power to Lay and collect Taxes, Duties, Imposts, and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States." – U.S. Const. Art. I, § 8, Cl. 1

3. Commerce Clause

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Rachel S Tattersall



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