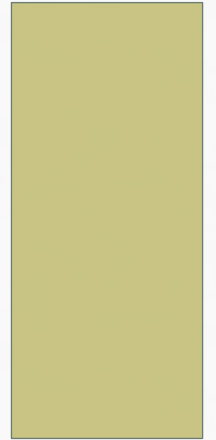


CHAPTER TWO

THE US LEGAL SYSTEM



FEDERALISM 15-17

- Review the Case File on Page 15. Use your textbook and the internet to identify the Constitutional amendments that Rambeaux allegedly violated.
 - Review the United States Constitution in Appendix I (Pg. 451) and pay special attention to the first ten amendments (459-460) Think about the needs of law enforcement officials and the restrictions placed on them through the Constitution. Does the Constitution put too many barriers in the way of law enforcement and prevent them from doing their job effectively? Why or why not? Explain.
 - What is Double Jeopardy (you may need to look this up online) Why does this not apply to Rambeaux? Explain
- Review Article 6 Clause 2 of the US Constitution in Appendix I What does this clause mean in your own words?
- **Define All Bolded Vocabulary Terms in your Vocabulary File** – For each definition copy the definition from your book. Redefine the word in your own terms and develop or provide an example that you will remember **or** explain why this is important to the study of law.

FEDERALISM

- **Federalism** – A system of government where the people are regulated by both a federal and state government
 - Each government has their own powers and responsibilities. Occasionally these powers and responsibilities can overlap.
 - Federal Laws Apply Everywhere in the Nation
 - Limited by US Constitution
 - Expressed Powers – Powers Given to Congress that are expressly stated in the Constitution
 - Implied Powers – Powers Granted to Congress not expressly stated in the Constitution but are necessary for executing the expressed powers
 - State Laws Apply only in a particular state.
 - May not make laws that interfere with federal laws (Supremacy Clause / Article 6 Clause 2 of US Constitution)
 - Often Powers are any power not expressed or implied to be in the hands of the federal government.
- Types of Powers
 - **Expressed Powers** – Powers Given to Congress that are expressly stated in the Constitution
 - **Implied Powers** – Powers granted to congress based on the need to execute the expressed powers but not expressly stated in the Constitution
 - **Reserved Powers** – Powers reserved for the states (usually any power not expressly stated in the constitution)
 - **Concurrent Powers** – Powers that are given to both the state and the federal government

UNITED STATES V LOPEZ / KATZENBACH V MCCLUNG (17-19)

- Read Application 2.1 United States v Lopez – Using Appendix I / The United States Constitution – Identify the clause which is referred to as the Interstate Commerce Clause
 - Complete Application and Analysis Problem / Question 2 on page 33
- Read Katzenbach v McClung on Pgs. 17-19
 - Complete Case Analysis Questions 1-3
- **Define All Bolded Vocabulary Terms in your Vocabulary File** – For each definition copy the definition from your book. Redefine the word in your own terms and develop or provide an example that you will remember **or** explain why this is important to the study of law.

POWERS OF THE STATE GOVERNMENT (19-22)

- Despite the wide ranging authority of the states to pass laws as they see fit what are some restrictions on this state power? Explain. Ensure your answer includes information on Preemption.
- Explain the Term ex-post-facto. What restrictions exist on passing ex-post-facto laws? Why is it necessary for this restriction to be placed on governments? What issues could society face if ex-post-facto laws were permitted?
- Using your textbook and the internet identify some powers that fall under exclusive jurisdiction, concurrent jurisdiction. Ensure you understand what each of these terms means.
- Your textbook identifies the idea that although the federal government doesn't necessarily have the power to make criminal laws it does have some powers through the interstate commerce act. Explain the reasoning behind this and the application of the word interstate and commerce.
- **Define All Bolded Vocabulary Terms in your Vocabulary File** – For each definition copy the definition from your book. Redefine the word in your own terms and develop or provide an example that you will remember **or** explain why this is important to the study of law.

POWERS OF THE STATES

- States Power to make Laws are Vast but are Limited by:
 - **Preemption** – The federal government is the only authority that can make laws governing a particular thing.
 - **Supremacy Clause** – States can not make laws countermanding or conflicting with federal laws.
 - **Exclusive Jurisdiction** - States cannot utilize powers that are expressly given to the Federal Government alone in the Constitution.
 - **Ex-Post-Facto Laws** – States can not make laws that hold people accountable for crimes that were committed prior to a law being in existence.
- **Supremacy Clause** The Laws of the Federal Government are supreme to that of the states. State law can not interfere with federal law.
 - There are no procedural rules for courts imposed on the states by the federal government
 - Accused persons are granted some rights under the Constitution – Fourth , Fifth, Sixth and Eighth Amendments.
 - States are bound to provide due process of Law under the 14th Amendment
- **Exceeding Rights**
 - The Constitution sets a minimum standard states can exceed and grant more rights but they can not take those in the Constitution Away.

SUPREMACY CLAUSE / TEXAS V JOHNSON

- Research and review the following concepts as they are related to one another:
 - The Alien and Sedition Acts (1798)
 - Kentucky and Virginia Resolutions (1798)
 - Nullification
- Using the information you've gathered so far in chapter two and utilizing the United States Constitution in Appendix I (Only include the **Bill of Rights** - The first 10 amendments)
 - Explain - Was the Alien and Sedition Act Legal and within the purview of the Federal Government?
 - Explain - Were the Kentucky and Virginia Resolutions legal and within the purview of the State Governments?
- Read Texas v Johnson on Pages 20-21 Answer Questions 1 and 2 under Case analysis and be prepared to share your answers with the class.
- **Define All Bolded Vocabulary Terms in your Vocabulary File** – For each definition copy the definition from your book. Redefine the word in your own terms and develop or provide an example that you will remember **or** explain why this is important to the study of law.

THE LEVELS OF GOVERNMENT (22-25) / MARBURY V MADDISON

- Review the three branches of government identified by your textbook. What are the roles of these three branches of government in your own words.
 - Imagine a law is developed by Congress that requires all citizens to possess government (state or federal) ID Cards in order to vote. Identify the roles of the three branches of government in relation to this law, its development, execution and interpretation.
- Review Application 2.4 and explain, in your own words why the supreme court enabled Heath to be tried for the same crime in two different states. Why is this not a violation of Double Jeopardy?
 - Aside from state crimes do you think any federal law violation may have been committed? Why?
- Begin Working on Marbury v Maddison Assignment (Assigned in Class)

SOURCES OF LAW (24-29)

- What are the various sources of law in our society? Explain each source and what it means. Think of an example of each of these types of laws or use the internet if you get stuck.
 - What is required for a law to be considered a **code**?
- Use the case file at the beginning of the chapter. Identify the sources of law cited in this case file? Explain why you think those particular sources are accurate?
- How has English Common Law made an impact on the American system of laws?
 - Think about the term **precedent** and **stare decisis** how might a precedent be or have been set? How can a precedent be changed? Explain.
 - Are all laws set in stone or do they evolve with time? Explain your position.
- Review Application 2.7. Had you been a justice changed with formulating an opinion what would it have been and why? What does this particular case say about the power of the courts to decide disputes? Must all issues before a court be that of a legal violation?
- Review application 2.8 and reference the US Constitution in Appendix of your book. Find the amendments cited and compare them to the case information provided. Explain the wording of the amendments and why they are important in determining the outcome of these disputes.
- **Define All Bolded Vocabulary Terms in your Vocabulary File** – For each definition copy the definition from your book. Redefine the word in your own terms and develop or provide an example that you will remember **or** explain why this is important to the study of law.

SOURCES OF LAW / CONSTITUTIONAL AND CASE LAW

- Constitutional
 - US Constitution
 - Supreme Law of the Land – No law, decision or regulation can override the Constitution. Interpreted by the US Supreme Court
 - It is the duty of the courts to interpret the Constitution when rendering legal decisions that call into question rights and responsibilities under the law.
 - Organization
 - Seven Articles Establishing Government
 - Twenty Seven Amendments Dealing with a variety of topics (normally citizen rights / state's rights and responsibilities)
 - First Ten Amendments Known as the Bill of Rights
 - First Amendment Probably the most Important for Individual Citizens
 - State Constitutions
 - Modeled After Federal Constitution / Applies only to the state they are for. Interpreted by State Supreme Courts

CASE LAW / COMMON LAW

- Case Law – Developed from the idea of English **Common Law**
 - Developed through past Judicial Decisions **precedent** (*stare decisis*) – If it has been decided one way in the past a similar issue should be decided the same way.
 - Law develops over time and precedent changes (reference figure 2-3 in text / Right to an attorney)
- Marbury V Maddison – Example of Case Law
 - The Supreme Court Gave itself the power to override Statutory law.
- *Stare Decisis*
 - Only applies when a lower court is faced with a decision previously faced by a higher court (Stare Decisis **does not** apply when an appeals court is hearing a case decided by a trial court but **does** apply if reversed)
 - If Decided by a State Court *stare decisis* **does not** apply to federal courts or other state courts but **does** apply to lower, same state courts
 - Can only apply when the decision is published and public knowledge. Many cases are not published unless there is a question of legal interpretation contained within. All Supreme Court Cases are Published. If published it becomes **binding case law** to all lower courts.

SOURCES OF LAW / STATUTORY LAW

(30-32)

- Before getting started briefly review Case Law by reading Application 2.9 on page 29 and 30. Explain why the decisions presented are *stare decisis* to only a particular group of courts based on the case and the court hearing the case?
- Using the Rambeaux case at the beginning of the chapter and Figure 2-4 on Page 30, identify the sentences within the Federal Statutory Law and the State Statutory Law that Rambeaux violated through his actions.
- Using your text on page 31 Develop a detailed timeline in your notes indicating how a bill becomes a law.
 - Watch the following video <https://www.youtube.com/watch?v=Otbml6WlQPo&feature=kp>
- On the State Level what are two other manners in which a law can be passed?
- **Define All Bolded Vocabulary Terms in your Vocabulary File** – For each definition copy the definition from your book. Redefine the word in your own terms and develop or provide an example that you will remember **or** explain why this is important to the study of law.

STATUTORY LAW

- State and Federal Systems Closely mirror one another
 - Legislation Proposed
 - Bill Introduced to one house of legislature
 - Bill Sent to Committee
 - Bill Voted On By one House
 - Bill Sent to Second House / Repeats Committee Process
 - Bill Sent to Conference Committee
 - Bill Voted on by Both Houses
 - Bill Sent to Executive Branch – Veto / Pocket Veto / Signed into Law
 - Veto can be overridden by 2/3 majority of both houses.
- State Laws Differences
 - Initiative
 - Laws can be proposed by citizenry via petition – if petition gains enough signatures law is put on a ballot during an election for voter approval
 - Referendum
 - Law passed through traditional process but require voter approval before becoming law.

APPLICATION AND ANALYSIS PG.

33 / 34

- Answer Questions 1, 3 under Application and Analysis
- Answer Question 1, 2 and 3 under Assignments and Projects (pg. 34)

APPLICATION AND ANALYSIS (PG 34)

- Answer Questions 4, 5 and 6 under Application and Analysis