AMERICAN GOVERNMENT IN CHRISTIAN PERSPECTIVE A Beka Book (1997)

Flawed definitions of states' rights, judicial activism, judicial restraint, and strict and loose construction; fails to identify trinitarian versus unitarian sovereignty as a key conflict in constitutional history

The Constitution intended a plurality of entities – state and federal governments – FROM to share in one sovereign power, as in the Trinity. This was not "dual federalism," where state and federal governments would coexist as two separate sovereign powers.

blacks, but not otherwise to

trench on state police powers.

facturing is a state police power.

1789 Congress revises Madison's draft

of the 1st Amendment to restrain only

the federal government, not the states.

1833 Barron v. Baltimore

The original intent of the Bill of

government but not the states

1824 Gibbons v. Ogden

The commerce clause permits

federal regulation of interstate

interstate flow of goods, but not

of strictly intrastate commerce.

navigation as well as of the

Rights to restrain the federal

receives formal recognition.

1800

TRINITARIANISM

UNITARIANISM

Against that initial trinitarian constitutionalism, a unitarian trend centered sovereignty at the national level over time as Congress and the Supreme Court rejected originallyintended federalism in the interstate commerce clause and constitutional amendments.

IN 1965 Griswold v. Connecticut The Supreme Court overturns a state law barring **CONSTITUTIONALISM** The **deity of Christ** is the premise behind the pessimistic view of human nature and trinitarian shared sovereignty in federalism. It is therefore the absolute that judges the soundness of constitutional interpretation in American history.

1947 Everson v. Board of Education of Ewing Township The 14th Amendment empowers the Supreme Court to decide when state

education policies "breach" the "high and impregnable" "wall" of churchstate separation under the 1st Amendment's establishment clause.

1943 West Virginia State Board of Education v. Barnette The 14th Amendment vests in federal courts the final say on whether state laws infringe on religious freedom protected by the 1st Amendment, despite any constitutional right of the democratic branch to set state policy on the subject.

1937 Palko v. Connecticut 1873 Slaughterhouse Cases The 14th Amendment has "absorbed" and made binding The 14th Amendment intended on the states those "privileges and immunities" of the Bill to overturn the *Dred Scott* of Rights that in the Supreme Court's judgment are "fundecision and constitutionalize damental" and "implicit in the concept of ordered liberty." the 1866 Civil Rights Act in defense of freed Southern

> 1925 Gitlow v. New York The 14th Amendment forbids states as well as Congress to abridge 1st Amendment guarantees of free speech and press. Courts can decide when states' exercise of their police powers crosses that line.

1937 National Labor Relations 1895 U.S. v. E.C. Knight Company The federal government cannot prohibit Board v. Friedman-Harry monopolies of manufacturing of goods which may enter interstate commerce. because in federalism, control of manu-

Marks Clothing Company Because they buy and sell across state lines, the federal government can restrain even small local manufacturers' resistance to unionization, trumping state police powers on labor issues.

1920

use of contraceptives, inferring a general "right of privacy" from "penumbras, formed by emanations" of rights in Amendments 3, 4, 5, and 9; and from subjective non-constitutional natural law sources "older than the Bill of Rights," based on the "traditions and collective conscience of our people.'

The voluntariness test under the 14th Amendment's due process clause insufficiently protects suspected criminals during state interrogation, which must inform them of their right to a lawyer or run afoul of the 5th Amendment's rule against self-incrimination and render any confession inadmissible in court.

1966 Miranda v. Arizona

1973 Roe v. Wade The 14th Amendment's v. Texas The 14th Amenddue process clause ment's due proprohibits states from cess clause invaliinterfering in any way dates Texas' antiwith abortion of an sodomy law beunborn child for any cause it denies reason during the first liberty to homotrimester, although sexuals in their many states had antiprivate sex lives, abortion laws in effect from before adoption nor can society of the 14th Amendmandate a moral code even though ment until 1973. 32 of 37 states had anti-sodomy laws in 1868.

2003 Lawrence

1942 Wickard v. Filburn

To regulate commodity prices, Congress under the commerce clause can regulate their intrastate consumption by their producers, who otherwise would have bought them in interstate commerce.

1941 *U.S.* v. *Darby*

To enforce federal public policy (here, maximum hours and minimum wage laws), Congress can supersede state police powers over intrastate manufacturing by banning nonconforming goods from interstate commerce.

AMERICAN GOVERNMENT FOR CHRISTIAN SCHOOLS

Bob Jones University Press (2005)

Baffling student text discussions of strict and broad construction, of judicial restraint and judicial activism, of states' rights and state sovereignty; silence on trinitarian constitutionalism; no explanation of unitarian rejection of it in the 20th century