

Federalism

Chapter 4

I. Federalism: Definitions and Theoretical Perspectives

– Federal system-two or more governments exercise power and authority over the same people and the same territory. In the United States, government power is divided between the national government and the states.

- 1. **Dual federalism**
- 2. **Cooperative federalism**

Dual Federalism (Layer Cake)

This model has four parts

1. National government rules by enumerated powers
2. National has a limited set of constitutional purposes
3. All levels are sovereign within their sphere
4. The relationship between state and national is tension, not cooperation

Layer Cake

- In dual federalism the levels of government are separate and distinct like the layers of a cake
- State's rights are of huge importance to this theory
- Implied powers of the national government contradict this theory

10th Amendment

- "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Cooperative Federalism Marble Cake

- This theory has three parts
1. National and state agencies typically undertake government functions jointly
 2. The nation and states routinely share power
 3. Power is not concentrated at any government level or agency

Marble Cake

- Rejects the idea of separate spheres, or layers, for the states and the national government
- This theory relies heavily on two parts of the constitution
 1. Article VI- Supremacy Clause
 2. Article I, Section 8, Clause 18- Elastic Clause

Marble Cake

- | | |
|---|---|
| ■ Article 6 | ■ Elastic Clause |
| ■ States that national law is supreme | ■ Congress shall make any law "necessary and proper" for carrying out it's duties |
| ■ Requires all government officials to disregard any law contrary to national law | |

Cooperative Federalism

- Doesn't reject powers of the state
- It suggests that the dual(layer cake) theory doesn't accurately explain the way government works in the real world.

Shift of Power

- Since the Constitution was written in 1787 the power has shifted greatly in favor of the national government.
- The greatest test of States Rights was the Civil War and reconstruction but definitely not the last
- The new deal also went a long way in expanding the role of the national government

Legislation and the Elastic Clause

1. The Elastic Clause has greatly enhance the power of the national government
- Voting rights act- Forces states to follow more guidelines in elections. (Some still want more regulation)
 - McCulloch v. Maryland

Legislation and the Commerce Clause

2. The Commerce Clause- "congress shall have power...to regulate commerce... among the several states
- During the great depression congress enacted many relief programs that required the cooperation of national and state governments and put regulations on funding from the national government
 - (Steroids, Spy Gate, Janet)

Increase of Congressional Power

- Preemption- the power of congress to enact laws that have the national government assume total or partial responsibility for a state government function (national intervention in state functions)

-Nutritional Labeling and Education Act of 1990- stripped the states of their power to impose food labeling requirements

Increase of Congressional Power Preemption

- Mandate- requirement that a state undertake and activity or provide a service in keeping with minimum national standards (e vs. f)

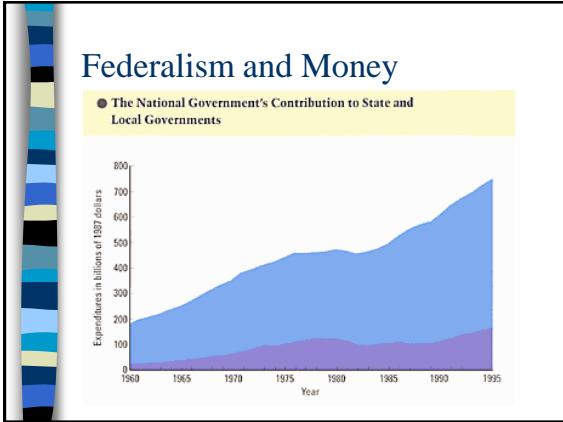
-Medicaid- a national program that requires state governments to provide low income citizens with minimal healthcare (Jointly funded)

Increase of Congressional Power Preemption

- Restraint- forbids state government from exercising a certain power

-Bus Regulatory Reform Act of 1982-state forbidden to contract services that include bus routes that lost money

- Preemption forces national priorities on the states and many times forces the states to pay to meet national standards



- ### Unfunded Mandates
- The national government often issues mandates despite a lack of funds at the state level
 - The national government continues to control state activity without having to pay for it.
 - (look at the KY budget problems lately)
 - Unfunded mandates act of 1995 (not a lot of help)

- ### Grants-in-aid
- Money provided by one level of government to be spent for a given purpose
 - Most grants come with “strings” or requirements attached by congress.
 - Many are awarded on a matching basis, the state is expected to make a contribution as well

Grants-in-aid

- Categorical Grants- these target specific purposes and have restrictions on their use.
- 2 types of these grants
 1. Formula grants- these are distributed following a formula which determines who is eligible and for how much, These formulas are often political tools

Grants-in-aid

2. Project grants- these are awarded on the basis of competitive applications submitted by prospective recipients.

Grants-in-aid

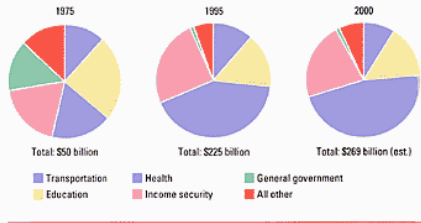
- Block Grants- these are awarded for general purposes, allowing the recipient great discretion in spending grant money
- These are obviously the most attractive type for the states
- For example: these may be use for Secondary education, they can be spent on anything in that category books, computers a new gym etc.

Grants-in-aid

- Are all methods for redistributing income. Money is collected by the national government by taxpayers in all 50 states and allocated to small groups of citizens, supposedly worthwhile purpose (equality)
- In the 1960's Grant spending doubled every 5 years (a huge increase)
- South Dakota v. Dole

Grants-in-aid (see new graph page 104)

● Trends in National Government Grants to States and Localities, FYs 1975, 1995, and 2000



Grants-in-aid

- All grants aim at redistribution of income, which is the most controversial action any (non-communist) government can undertake

Judicial Interpretation

- In the 19th and early 20th century the court usually decided in favor of the states
 - From '37-'95 the Court almost always decided in favor of the national government in contests involving the balance of power
 - Since '96 there are examples of the court supporting both the national and state governments in conflict
- (how is the appointment process seen here?)*

Evolving Federalism

- New Deal- Took the size of federal government and it's budget to new heights, also forced the cooperative(marble cake) theory on the nation
- Great Society did much to continue this trend with grants-in-aid and mandates. LBJ-Great Society-Used states as Agencies of the national government

Evolving Federalism

- Nixon and New Federalism- did much to resurrect dual federalism, Using block grants and giving autonomy back to the states was the main tool used here (more dual)
- Reagan and New New Federalism meant that the states would foot the bill for government services (cut nat. tax and spending on equality programs)

Evolving Federalism

- Municipal Governments-cities and towns
- County Governments
- School Districts-administering education programs on a local level
- Special Districts-perform a particular function

Further Crosscutting Responsibilities

- State government now raise taxes or enact new ones to pay for services that were once at least partly covered by the National government (better schools, more prisons, better daycare, etc.)
- Crises have also prompted more cross responsibility

Better State Governments

- Since the 60s states have gotten better at making and carrying out policy
- State Governments meet more often
- Better education among elected and unelected state officials
- Grant-in-aid programs are written to give states more freedom in implementation
