THE STAGES OF FEDERALISM

FEDERALISM

Federalism is a political system in which power is divided and shared between the national/central government and the states. This arrangement limits the power of government.

Over the years, the powers of the national government have increased tremendously at the expense of the states. The Supreme Court has played a key role in defining the relationship and powers of the national government through its broad interpretation of the supremacy and commerce clauses.

Stage 1: Dual Federalism (1789 – 1937)

Stage is called “dual federalism” because the functions of the state and national government remained largely separate.

- Marshall Court
  - Cases upheld expansive federal powers. They had a major impact on the balance of power between the national and state governments.
  - *McCulloch v. Maryland* (1819)
  - *Gibbons v. Ogden* (1824)

- Taney Court
  - Different notion of federalism
  - Belief that separate and equally powerful levels of government work best
  - National government should not exceed its constitutionally enumerated powers
  - Court tended to limit the national government’s authority in areas such as slavery and civil rights
  - *Dred Scott v. Sandford* (1857)
  - *Post Civil War Amendments*
  - *Plessy v. Ferguson* (1896)

Stage 2: Cooperative Federalism (1937 – 1963)

Stage is called “cooperative federalism” because the new programs of the “New Deal” require cooperation across all levels of government.

- Franklin Roosevelt’s “New Deal” sparks a revolution in national policy making and an increased role for the national government altering the balance of power.
- Initially, the Supreme Court struck down New Deal programs, but in 1937 Supreme Court changes course (court-packing plan).

Stage is called “regulated federalism” because the national government further intervened in state government decision-making by threatening to withhold federal grants for specific purposes.

- **Categorical Grants** were given to the states for specific purposes. Discretion largely remains in the hands of federal and officeholders.
- Example: War on Poverty – in an effort to alleviate social ills that the states had been unable or unwilling to remedy, Johnson Administration bypasses conservative legislatures and administrators and gives money to constituencies that will spend it on urban renewal, education, poverty programs, and job training.
- Example: to regulate speed limits within states, the national government threatens to withhold federal transportation dollars thus forcing the states to comply with federal mandates.
- **Unfunded mandates**
- From the New Deal to the 1980’s, the Supreme Court expanded national powers and restricted state power in their rulings.

Stage 4: New Federalism (1981 - ?)

Stage is called “new federalism” because it reflects the return of administrative powers to the state governments. The federal-state relationship was proposed by Ronald Reagan during the 1980’s.

- **Block Grants** are given to states for general purposes and allow state officials greater discretion over how funds will be spent, e.g. education, welfare.
- Reduced the size and power of the federal government.
- President Reagan used states rights as a litmus test for appointments.
- Bush Administration: federal government expands post 9/11
- Most Supreme Court decisions since 1989 have been 5-4 majorities in favor of states rights.
- Bush Administration: federal government expands post 9/11.