



Cooperative Federalism

(1930-1960)

Dual to Cooperative Federalism

The period before before cooperative federalism was referred to as the Dual Federalism period.

To simplify this, it's easiest to think of dual federalism as a layered cake; each layer is distinctly separated with their own purposes. In contrast cooperative federalism is more of a marble cake, where powers are shared and national government and state governments are partners rather than to distinct spheres of authority.

What is Cooperative Federalism?

It's the ideology of dividing powers between member units and common institutions. State governments, local governments, and the federal governments all have the duty of governance for the people. These governments work together to distribute power in a fashion that can efficiently and justly make decisions and etc.

The people have rights and obligations that are protected under the security of the government.

This type of government avoids the risk of one person or institution to accumulate sovereign power.

The Great Depression (1929-1939)

The cooperation of the national and local government was greatly beneficial during times of economic hardship, and the Great depression caused there to be more pressure regarding the national government's role in aiding the country.

As the government became more involved, they started providing services such as old-age pensions (Social Security), unemployment insurance, agricultural subsidies, protections for organizing in the workplace, and a variety of other public services

The New Deal (1933-1936)

Before the New Deal was implemented, the concept of federalism that was used was “dual federalism”. The New Deal was created by Franklin D. Roosevelt to get the U.S. out of the depression but it also shifted the way state governments, local governments, and national governments worked with each other. The New Deal is what started the era of cooperative federalism.

The Social Security Act is an example where more governments worked together as well as the public and the free market.

Nebbia v. New York (1934)

- To combat the effects of the Great Depression, New York adopted a Milk Control Law in 1933 which established a board empowered to set a minimum retail price for milk. Nebbia was a store owner who violated the law.
- In a case which included a lengthy discussion of the Due Process Clause, the Court held that since the price controls were not "arbitrary, discriminatory, or demonstrably irrelevant" to the policy adopted by the legislature to promote the general welfare, it was consistent with the Constitution.
- There was nothing "peculiarly sacrosanct" about prices which insulates them from government regulation.

Wickard v. Filburn (1942)

- Filburn was a small town farmer who harvested 12 more acres of wheat than what was allowed. His argument was that he used it for his personal use rather than putting it on the market, therefore he wasn't really affecting commerce
- However, unanimous court still decided through the Commerce Clause, Congress still had the jurisdiction to regulate prices. Furthermore, they determined that Congress could regulate activity even if it had no large impact on interstate commerce.
- This is important to the concept of federalism because it depicts how the Federal government was receiving more power over the economy

Dean Milk Company v. City of Madison (1951)

- A Madison, Wisconsin ordinance prohibited the sale of milk within city limits unless it came from a local farm or was pasteurized at an approved plant within five miles of the center of Madison
- Dean Milk Co., which was based in Illinois, sold milk in Illinois and Wisconsin that was pasteurized in plants that were 65 and 85 miles from Madison. Madison denied Dean Milk a permit to sell milk and the company filed suit against the city.
- In a 6-to-3 decision authored by Justice Tom C. Clark, the Court struck down the ordinance under the commerce clause.
- Cities and states, the Supreme Court reasoned, are not allowed to economically isolate themselves from the rest of the nation.

Rochin V. California (1952)

- On July 1st three police officers entered Rochin's home without a search warrant and attempted to arrest him on possession of drugs
- Rochin quickly swallowed the evidence, pills, on his nightstand which prompted the officers to attempt to have him throw it up by shoving their fingers down his throat and even kicked him in the stomach
- Once they had given up they took him to a doctor and instructed him to put a tube down Rochin's throat in an attempt to get the evidence
- Once they gained the evidence the Supreme Court reversed the conviction because it violated his right of due process, which was a vague topic at the time, and added that behavior which "shocks the conscience" violates due process

Commission on Intergovernmental Relations (1953)

- a temporary study commission
- to review federal aid to state and local governments, to determine if federal aid and involvement were appropriate, and to assess the fiscal capacity of the federal government and the states to undertake various activities
- 25 members: 15 appointed by President Eisenhower, 5 appointed by President of the Senate, and 5 appointed by Speaker of the House
- Operated until 1955

Brown v. Board of Education (1954)

- in 1865, the court case of Plessy v. Ferguson established the principle of “separate but equal” facilities to separate blacks and whites in schools and public areas
- the case of Brown v. Board of Education in 1954 included five separate cases that were heard by the U.S Supreme Court regarding segregation in public schools
- the main issue raised was the separate school systems for blacks and whites were inherently unequal and violate the “equal protection clause” of the 14th amendment
- ultimately, chief justice Earl Warren declared that segregation in public schools was unconstitutional, reversing Plessy v. Ferguson



Little Rock Nine (1957)

- in September of 1957, nine African American students tried to enter Central High School in Little Rock, Arkansas
- on the first day of school, a white mob entered and Governor Orval Faubus positioned the Arkansas National Guard to prevent the students from entering :(
- after this incident, Martin Luther King sent a telegram to the President urging him to take action on this horrific situation
- President Eisenhower order troops from the Army's 101st Airborne Division, who were shielded by the National Guard for the rest of the school year
- Since the National Guard and the federal government were involved, this problem became a national affair.

Advisory Commission on Intergovernmental Relations (1959)

- The Congress created the ACIR in order to monitor intergovernmental relations, the operation of american federalism, and to report to Congress the recommended improvements on a continuing basis.
- Unlike the CIR, the ACIR is a continuing body comprised of representatives from federal, state, and local governments.
- 26 members
- 6 from Congress appointed by the House and Senate
- 4 Governors; 3 State Legislators; 4 Mayors, and 3 county officials appointed by the President from nominations by the respective national associations of state and local governments
- 3 private citizens and 3 representatives of the federal executive branch appointed directly by the President
- Operated until 1996

Amendments

- *20th- Jan 23, 1933* - The terms of the President and Vice President shall end at noon on the 20th day of January and the terms of Senators and Representatives at noon on the 3rd day of January.
- *21st- December 5, 1933* - The eighteenth article of amendment to the Constitution of the United States is hereby repealed.
- *22nd- February 27, 1951* - No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once.

Cooperative to Creative Federalism

- Beginning of the 1960s, newly appointed President Lyndon B. Johnson initiated the Creative Federalism era through his Great Society program
- It shifted the cooperative balance of powers between national, state, and local governments to a more powerful national government above the others

Sources

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