HISTORY OF AMERICAN FEDERALISM

HOW SHOULD WE CONCEPTUALIZE THE AMBIGUITIES OF FEDERALISM?

COMPETING MODELS & METAPHORS TO UNDERSTAND & EXPLAIN FEDERALIST SYSTEM

Original Constitutional Powers of National and State Governments

- NATIONAL GOVERNMENT POWERS
  - Declare War
  - Make Treaties
  - Tax Imports & Exports
  - Regulate postal Service
  - Coin Money
  - Regulate Interstate Commerce
  - Make all laws “necessary & proper”

- STATE GOVERNMENT POWERS
  - Protect Health & Safety
  - Regulate Intrastate Commerce
  - Regulate Elections
  - All other powers not delegated to national government

- SHARED POWERS
  - Make & Enforce Laws
  - Create Judiciary
  - Tax
  - Eminent Domain
DUAL FEDERALISM (1787-1913/1933)
“LAYER CAKE”
• STATE’S RIGHTS & LIMITED ART I, SECTION 8
• DUAL CITIZENSHIP
• CALHOUN, “COMPACT THEORY”
  • NULLIFICATION
  • SECESSION
• DRED SCOTT DECISION
  *(SCOTT V. SANDFORD, 1857)*
COOPERATIVE FEDERALISM
"MARBLE CAKE"
(1913/33 - 1964/1980)

- ANTECEDENTS IN CIVIL WAR & RECONSTRUCTION
  - STRENGTHENED FEDERAL POWERS
  - 14TH AMENDMENT
    - EQUAL PROTECTION
    - DUE PROCESS

- 16TH AMENDMENT (1913)
- NEW DEAL (1930S)
- WWII (1941-1945)
CREATIVE OR “COERCIVE FEDERALISM” (1964-1972)

• LYNDON B. JOHNSON’S GREAT SOCIETY
• CATEGORICAL GRANTS
• BLOCK GRANTS
“POP QUIZ” #3

On a blank sheet of paper, write your:

- Name
- UF ID
- Section Number
“POP QUIZ” #3

TRUE OR FALSE?

According to the Stateline article by Maggie Clark, the federal government has limited options if it wanted to challenge state laws legalizing marijuana.
FEDERALISM SINCE GREAT SOCIETY PROGRAMS

- **Richard Nixon**: "General Revenue Sharing"
- **Ronald Reagan**: "New Federalism"
- **Bill Clinton**: "Devolution Revolution"
- **George W. Bush**: "Ad-Hoc Federalism"
- **Barack Obama**: Progressive Federalism?
TRENDS IN FEDERAL GRANT-IN-AID OUTLAYS

Post-1960s Explosion of Federal Grants to State and Local Governments
By Function, 1960 - 2011

Billions of Nominal Dollars

Source: OMB, Historical Tables, Table 12.2
Produced by Veronique de Rugy, Mercatus Center at George Mason University
INCREASE IN FEDERAL AID TO STATE & LOCAL GOV

Figure 1 Federal aid as a percentage of total federal outlays for selected years, 1965–2006.
Figure 1.
Federal Government Expenditure, Per Capita Ranges by State: Fiscal Year 2010

Dollars per capita
- 12,000 and above
- 10,500 to 11,999
- 9,000 to 10,499
- 0 to 8,999
- U.S. average per capita: $10,460

Note: For additional information, see the Summary of Methodology in this report.
Source: U.S. Census Bureau, Consolidated Federal Funds Report for Fiscal Year 2010. Data are not subject to sampling error, but for information on processing and response error, see the Reliability of Data section in the Introduction.
INCORPORATION OF BILL OF RIGHTS, AS APPLIED TO STATES UNDER 14TH AMENDMENT

• LESS DIFFERENTIATION ACROSS STATES

• 14TH AMENDMENT ➔ EQUAL PROTECTION OF THE LAWS
  • BROWN V. BOARD OF EDUCATION (1954)
  • BAKER V. CARR (1962)

• 14TH AMENDMENT ➔ DUE PROCESS
  • GIDEON V. WAINWRIGHT (1963)
  • REYNOLDS V. SIMS (1964)
  • GRISWOLD V. CONNECTICUT (1965)
  • MIRANDA V. ARIZONA (1966)