

Devolution 1980-2001

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The Basics

- Devolution is a new form of federalism in which the delegation of power is transferred to a lower level of government by the central government. The “New Federalism” movement that began in the late 20th and early 21st centuries. It is a political philosophy of Devolution.

Legislative and Executive Action

- Republican President Ronald Reagan was elected in 1980. His administration was marked by “New Federalism”, which promised to return power to the states. Under Reagan, defense spending was increased, there were more tax cuts, Social Security spending had slightly increased, and less money was given grants-in-aid programs (such as welfare).
- Overall, there was less federal aid to local and state governments. Reagan gave money mainly in the form of **block grants***.
- Although Bill Clinton was a Democrat, he also campaigned against a strong federal government.

Grants given to states that had few strings attached for specific activities such as health care

Legislation & Executive Action Cont.

- 1994
 - Contract with America was signed by nearly all Republican candidates seeking election to the House of Representative. It stated that they would fight for more state's rights, and as a result they were elected and had the majority in both houses of Congress.
- 1995
 - Unfunded mandates were national laws that the states had to pay yearly for. For example, Columbus, Ohio had to pay nearly \$1 billion to comply with the national Clean Water Act. In order to stop costly federal programs without figuring out how to fund them, Congress passed the Unfunded Mandates Reform Act of 1995.

Legislation & Executive Action Cont.

- 1996
 - The Personal Responsibility and Work Opportunity Reconciliation Act of 1996
 - replaced Aid to Families with Dependent Children with TANF (Temporary Assistance for Needy Families)
 - Gave state governments control over welfare
- As a result of the above legislation, many states made money and offered deep tax cuts to their citizens. However, soon increased state spending in Medicaid and environmental acts created an increase in taxes on the lower and middle classes.

Legislation & Executive Action Cont.

- 2000
 - George W. Bush was elected
 - Due to 9/11 terrorist attack and various states in debt, Bush's administration began to exert Federal power once more in order to relieve the people of heavy taxes and panic. This marks the transition from devolution to the next political era.

Court Case

Garcia vs. San Antonio Metropolitan Transit Authority (1985)

- Supreme court case - upheld that the Fair Labor Standards Act could extend to state and local governments (now states had the power to require employers to provide minimum wage and overtime pay to employees)
- It affected Devolution because it granted the states a significant amount of power that previously belonged exclusively to the government.

Court Case

Webster vs. Reproductive Health Services (1989)

- Supreme court case - ruled that the states could allocate resources in favor of childbirth or abortion however they wanted - previously, the national government deemed it illegal for state funds to be used to facilitate or assist in abortions.
- It affected Devolution because it provides states with power over the national government, enforcing the old principles of states' rights, and further propelling the push for a diminishing federal government.

Court Case

Seminole Tribe vs. Florida (1996)

- The Indian Gaming Regulatory Act
 - Indian tribes can only provide gambling facilities and activities in agreement between the tribe and the State. Congress had to respect the states' decision, and they could not be forced into negotiating with anyone or be persecuted for choosing not to do so.
- The ruling protected states and gave them more power in being able to regulate their own business affairs without the national government's interference. Therefore it affected Devolution by slowly taking powers away from the central government.

Court Case

United States vs. Alfonso Lopez Jr. (1995)

- The Gun-Free School Zones Act of 1990 (GFSZA)
 - unlawful for any individual knowingly to possess a firearm at a place that he knew or had reasonable cause to believe it was a school zone.
- Supreme Court Case - Alfonso Lopez, Jr. (D), a 12th-grade student, carried a concealed and loaded handgun into his high school and was arrested and charged under Texas law with firearm possession on school premises. The next day, the state charges were dismissed after federal agents charged Lopez with violating the Act. The District Court denied Lopez's motion to dismiss the indictment, concluding that the GFSZA was a constitutional exercise of Congress' power pursuant to the Commerce Clause of Article I. The Fifth Circuit reversed, holding that the Act exceeded Congress' power under the Commerce Clause and was therefore unconstitutional. The Supreme Court granted cert.
- Issues:
 - The GFSZA exceeded Congress' authority under the Commerce Clause.
 - The three broad categories of activity that Congress may regulate under its commerce power are: a) the use of the channels of interstate commerce; b) Congress is empowered to regulate and protect the instrumentalities of interstate commerce, or persons or things in interstate commerce, even though the threat may come only from intrastate activities; and c) Congress' commerce authority includes the power to regulate those activities having a substantial relation to interstate commerce, i.e., those activities that substantially affect interstate commerce.

Court Case

Florida Prepaid vs. College Savings Bank (1999)

- Congress can't change patent laws to affect state sovereign immunity. Congress lacks authority under the commerce clause and the patent clause to eliminate sovereign immunity

TABLE 3.2 Major Federalism Cases Indicating the Supreme Court's General Devolution of Power Back to the States

Case	Year	Vote	Issue/Question	Decision
<i>Webster v. Reproductive Health Services</i>	1989	5-4	Are several state abortion restrictions constitutional?	Yes. In upholding most of the restrictions, the Court invited the states to begin to enact new state restrictions.
<i>New York v. Smith</i>	1992	6-3	Does the Low-Level Waste Act, which requires states to dispose of radioactive waste within their borders, violate the Tenth Amendment?	Yes. The section of the act that requires the states to take legal ownership of waste is unconstitutional because it forces states into the service of the federal government.
<i>U.S. v. Lopez</i>	1995	5-4	Does Congress have the authority to regulate guns within 1,000 feet of a public school?	No. Only states have this authority; no connection to commerce found.
<i>Seminole Tribe v. Florida</i>	1996	5-4	Can Congress impose a duty on the states to negotiate with Indian tribes?	No. Federal courts have no jurisdiction over an Indian tribe's suit to force a state to comply with the Indian Gaming Regulations Act, thus upholding the state's sovereign immunity (immunity from a lawsuit).
<i>Boerne v. Flores</i>	1997	5-4	Is the federal Religious Freedom Restoration Act and its application of local zoning ordinances to a church constitutional?	No. Sections of the act are beyond the power of Congress to force on the states.
<i>Printz v. U.S.</i>	1997	5-4	Can Congress temporarily require local law enforcement officials to conduct background checks on handgun purchasers?	No. Congress lacks the authority to compel state officers to execute federal laws.
<i>Florida Prepaid v. College Savings Bank</i>	1999	5-4	Can Congress change patent laws to affect state sovereign immunity?	No. Congress lacks authority under the commerce clause and the patent clause to eliminate sovereign immunity.
<i>Alden v. Maine</i>	1999	5-4	Can Congress void state immunity from lawsuit in state courts?	No. Congress lacks the authority to eliminate a state's immunity in its own courts.
<i>U.S. v. Morrison</i>	2000	5-4	Does Congress have the authority to provide a federal remedy for victims of gender-motivated violence under the commerce clause of the Fourteenth Amendment?	No. Portions of Violence Against Women Act were found unconstitutional.

Societal Changes

- Family and Medical Leave Act
 - Twelve workweeks of leave in a 12 month period:
 - The birth of a child and to care for the newborn child within one year of birth
 - The placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement
 - To care for the employee's spouse, child, or parent who has a serious health condition
 - A serious health condition that makes the employee unable to perform the essential functions for his or her job;
 - Any qualifying exigency arising out of the fact that the employee's spouse son daughter or parent is a covered military member on "covered active duty"

Societal Changes

- No Child Left Behind Program (2001)
 - Created a host of federal requirements which built frustration among states and local officials, who argue that administering the schools , from class size to accountability testing, should be their responsibility

Societal Change

- The Defense of Marriage Act of 1996
 - To help defend one-man, one-woman marriage from efforts to redefine it, the U.S. Congress overwhelmingly passed and president Bill Clinton signed it
 - How it affects devolution: Defining marriage in federal law and enabled states to decline to recognize same-sex marriages from other states

Societal Changes

- Personal Responsibility and Work Opportunity Reconciliation Act of 1996 - Replaced existing welfare program (Aid to Families with Dependent Children AKA: AFDC) with Temporary assistance to Needy Families (TANF), a program of the administrative power for welfare programs to the states.
- How it affects devolution: Good for states fiscal shape!

Societal Changes

- Disabilities Act (1990)
 - Discrimination against people with disabilities in employment, transportation, public accommodation, communications, and governmental activities

Societal Changes

- Immigration Reform and Control Act of 1986
 - Was passed to control and deter illegal immigration to the U.S.

27th Amendment

- Bans any law that implements changes in the salary of members of Congress until the next set of terms
- In 1992 it was fully ratified as an amendment to the Constitution.
- This is restricting the power of the Federal government.

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