

DUAL
FEDERALISM I
(FOUNDING-1860)

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DEFINITION

POLITICAL ARRANGEMENT IN WHICH THE FEDERAL AND STATE GOVERNMENTS WORK TOGETHER IN THEIR OWN DISTINCT SEPARATE SPHERES OF POWER, YET ARE TWO SEPARATE AND SOVEREIGN PARTS OF GOVERNMENT.

THE BEGINNING

THE ARTICLES OF CONFEDERATION FOCUSED ON
LIMITING THE POWER OF THE FEDERAL GOVERNMENT.

THE FIRST TEN AMENDMENTS TO THE US CONSTITUTION
ARE KNOWN AS THE BILL OF RIGHTS. WITHIN THESE
AMENDMENTS, THE TENTH BUILT THE FOUNDATION FOR
FEDERALISM IN THE UNITED STATES.

COMPOSITION

DUAL FEDERALISM CONTAINS A SPECIFIC CRITERIA FOR WHICH IT IS REQUIRED TO ABIDE BY:

1. THE NATIONAL GOVERNMENT RULES THROUGH POWERS STATED IN THE CONSTITUTION (ENUMERATED POWERS).

2. THE FEDERAL GOVERNMENT IS RESTRAINED TO A SPECIFIC SET OF CONSTITUTIONAL PURPOSES.

3. THE NATIONAL AND STATE GOVERNMENTS HOLD SEPARATE POWERS.

4. THERE IS A LACK OF COMMUNICATION BETWEEN THE NATION AND STATE GOVERNMENTS.

DETERMINING DATES

1787 : The new constitution was drafted and ratified, with seven articles, which outlined the way the new government would work, including the set powers of each part of government and the rights of the people.

1791 : The first ten amendments, or the Bill of Rights, were added to the constitution. The tenth provided that powers not granted to the federal government by the Constitution, nor prohibited to the States, are reserved to the States or the people. This founded the idea of states' rights, limited national government, and separate powers between states and national government.

1798 : The Kentucky and Virginia Resolutions were passed in response to Alien and Sedition Acts. The resolutions stated that the states have the right to interpret the Constitution and can declare federal laws unconstitutional.

COURT CASES

FEDERAL GOVERNMENT ORIGIN

Federalism was never clearly defined in the US Constitution, so John Marshall, Chief Justice of the United States, defined the powers with which the federal government was given. Many court cases were used in order to assure that the state and federal governments are co-equals, each sovereign in their own way.

MARSHALL & TANEY COURTS

• Marshall Court

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

• Taney Court

- o Different notion of federalism
- o Belief that separate and equally powerful levels of government work best
- o National government should not exceed its constitutionally enumerated powers
- o Court tended to limit the national government's authority in areas such as slavery and civil rights
- o Dred Scott v. Sandford (1857)

MCCULLOCH V. MARYLAND

- Maryland bankers and legislators opposed a nationally chartered bank, wanted to tax a federal bank
- Served as the elite case favouring national authority over the US economy.
- Concerned the constitutionality of a nationally chartered bank
 - The ability to charter a bank had not been explicitly granted to the national government in the Constitution, yet proponents argued that that was necessary for the federal government to exercise its constitutional power to “tax, borrow, and regulate interstate commerce.”
 - The bank’s legitimacy was approved by the Necessary and Proper Clause.

GIBBONS V. OGDEN (1824)

- New York legislature granted the Fulton-Livingston Company exclusive steamboat rights
 - In turn, the company leased ferry rights to Aaron Ogden
 - Ogden prevented Thomas Gibbons from running a ferry service between New Jersey and Manhattan by filing a complaint with the state
 - State sided with Ogden, so Gibbons took case to the Supreme Court, stating that only Congress had the right to make policies affecting interstate commerce
 - Chief Justice John Marshall sided with Gibbons, stating that Ogden violated the states' ability to regulate trade
- Decision reaffirmed supremacy of federal law

DREDD SCOTT V. SANFORD

- DECLARED THAT ALL AFRICAN-AMERICAN US CITIZENS WERE NOT LEGALLY CITIZENS, AND THEREFORE WERE NOT ALLOWED TO FILE SUIT
- DRED SCOTT, WHOM HAD BEEN LIVING IN THE FREE STATE OF ILLINOIS, STILL REMAINED A SLAVE, AFTER TRYING TO SUE FOR HIS FREEDOM AFTER MOVING TO MISSOURI
 - MISSOURI LAW STATED NO BLACKS COULD GAIN CITIZENSHIP
- DECISION LARGELY APPROVED BY THE SOUTHERN STATES
- OUTRAGED ABOLITION STATES
- CREATED MORE TENSION AND DESIRE FOR GREATER STATE RIGHTS

POWERS OF THE NATIONAL GOVERNMENT

- ✦ *To regulate commerce between states and international trade*
- ✦ *To coin money and regulate the value thereof*
- ✦ *To declare war*
- ✦ *To establish an army and navy*
- ✦ *To enter into treaties with foreign governments*
- ✦ *To establish post offices and issue postage*
- ✦ *To make laws necessary to enforce the Constitution*

STATE GOVERNMENT

- ✦ *To regulate intrastate commerce*
- ✦ *To conduct elections*
- ✦ *To ratify amendments to the U.S. Constitution*
- ✦ *To exercise powers neither delegated to the national government nor prohibited from the states by the Constitution as per Amendment X*

Works Cited

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