

3rd Period



Creative Federalism 1960-1980

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What is it?

- An era of federalism (between the years 1960 and 1980) in which the federal government worked closely with the local and state governments by supplying them with funds to not only improve society but to solve societal problems

Lyndon B. Johnson and The Great Society

- Lyndon B. Johnson wanted the nation “to build a great society, a place where the meaning of man’s life matches the marvels of man’s labor.”
- Reduction of poverty, benefits to minorities, deterioration to segregation
- Improvements to society

How did the Great Society affect Federalism?

The Great Society that Lyndon B. Johnson aimed to establish allowed the federal government to interfere directly with the state and local governments. By doing so, the people relied more heavily on the government to meet their needs. It was very similar to the Great Depression, in which the people expected the government to care for them. The federal government, therefore, gained power by funding the states with grants.

Major Court Cases of the Era

Baker v. Carr (1962)

A United States Supreme Court case which focused on the reapportionment of state legislators.

Case Summary: Charles Baker, a Plaintiff from Tennessee, sued Joe Carr in his position of the Secretary of State of Tennessee, due to the fact he was the person in charge of the conduct of the legislative districts since 1901. This was a problem since that moment in time greatly weighted the vote of rural homeowners against urban dwellers, who rapidly grew over a number of years, dominating the population. Since the districts hadn't been redrawn since 1901, Baker's vote was diluted as a result.

How does this major case affect federalism?

This case brought the issue to the federal courts and allowed federal courts to reapportion legislators, once more giving the federal government more power.

It also required that each legislative district within a state have the same number of eligible voters so that representation is based on population.

Major Court Cases of the Era

- Brandenburg v. Ohio (1969)
• Supreme Court Case
- Brandenburg, a leader in the Ku Klux Klan, made a speech at a Klan meeting and was later convicted under Ohio law for charges of crime, treason, and methods of sabotage and terrorism.
- Court didn't rule against him because Ohio law violated his right of speech.

How did this major case affect federalism?

There were a number of factors that the federal government now considered when referring to a person's freedom of speech. A direct incitement test was conceived, which included that the speech could be prohibited if it is "directed at inciting or producing imminent lawless action" and "it is likely to incite or produce such action."

The federal government gains power and is then able to overpower "freedom of speech" if there is a direct threat or incitement of a threat.

Major Court Cases of the Era

New York Times Co. v. U.S
(1971)

- Case is also called the "Pentagon Papers" case
- Case Summary: The Nixon Administration attempted to prevent the New York Times and the Washington Post from publishing materials and information belonging to the history of United States activities in Vietnam.

How did it affect federalism?

Supreme court ruled that any attempt by the government to prevent expression carried "a heavy presumption" against its constitutionality. Therefore, the First Amendment left no room for governmental restraint of the press.

Regardless, the federal government was still able to restrain certain types of publication, which showed they were still dominant.

Societal Changes

- Focus on minorities and poverty, which led to improvement in housing, transportation, education, and healthcare
- Civil Rights Revolution
- During the Nixon administration, Republicans endorsed “New Federalism” to restore states’ rights.

How did these societal changes affect federalism?

- The federal government was directly involved with societal changes. Under Lyndon B. Johnson's "Great Society," unity and desegregation was promoted, so these were obviously enforced in the states under the persuasion of the federal government.
- Federal and Local governments were directly linked, though the Federal government was still overpowering in terms of decisions and the course of these events.

Legislation

- Voting Rights Act of 1965
- Civil Rights Act of 1968
- State and Local Fiscal Assistance Act of 1972
- Amendments 23-26

Voting Rights Act of 1965

- Made to enforce the 15th Amendment to the Constitution
- Prohibits state and local governments from giving literacy tests and appointed federal examiners who had the power to register qualified citizens to vote
- This affected federalism by allowing the federal government to directly determine who is able to vote through federal examiners. This was enforced from the federal government as part of desegregation.

Civil Rights Act of 1968

- Provided for equal housing opportunity for all people regardless of race or national origin
- Also known as the Fair Housing Act
- This affected federalism by providing a stepping stone for desegregation. The federal government supported and enforced this.

State and Local Fiscal Assistance Act of 1972

- Allowed the federal government to give grants to local governments
- The state and local governments relied more on the federal government as a result, putting them in a place of power and influence. However, the federal government's involvement is also seen as positive since they were helping out the state and local governments.
- 30 billion dollars
 - 1/3 to state governments
 - 2/3 to local governments

Amendments 23-26

- Amendment 23: Gave District of Colombia residents the right to vote for president and vice president. (Added more electors to the electoral college as a result and affected the outcome of the electoral vote and therefore the federal government.)
- Amendment 24: Ended the poll tax that citizens were required to pay in order to vote. (More people were able to vote as a result and the federal government took away a little of their own power. State and local governments became more involved.)
- Amendment 25: Allows for the vice president to become president in the event of a death and to assume the role of the president if the president is unable to fulfill his duties. (Specifying a part of the executive branch of the federal government.)
- Amendment 26: Lowered the voting age from 21 to 18. (Allowed younger people to become more involved and therefore created more involvement all around from the local and state governments toward the federal government)

Cake Analogy

- **Marble Cake**
- The swirl of the two flavors symbolize the merging of state and federal governments
- The cake represents what the federal government was aiming to enforce: unity (regardless of race or status)
- However, it must be noted that the flavors aren't evenly mixed, which reflects creative federalism in the fact the federal government will still somehow have more power than the state and local governments. The cake—like the country—supplies a deceptive view of what looks like equality.



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