

Cooperative Federalism

A reminder of our introduction to
Federalism:

<http://www.youtube.com/watch?v=WQMZ2PT7kr0>

I. Cooperative Federalism

- - The idea that there is overlap between state powers and national powers.
- A. Dual Federalism - The older conception of Federalism that attempted to clearly separate national and state areas of authority.

A. Dual Federalism

Dual Federalism



- 1. Thought of as a layer cake with separate national and state "layers"
- 2. Recall the failed attempt to keep "interstate" commerce and "intrastate" commerce separate.

I. Cooperative Federalism

Cooperative Federalism



- B. Cooperative Federalism
- The current conception of Federalism that recognizes that there are overlapping areas of national and state authority.
- 1. Thought of as a marble cake with the different parts swirling and mixing into each other.

I. Cooperative Federalism

- 2. For example, there are overlapping national and state powers and agencies.
- a. Education policy is set at the state and even local (city) level, and there is also national education policy implemented by the US Department of Education.

II. Fiscal Federalism



- - An example of cooperative federalism, it is the practice of the national government providing funding to the states for various projects (schools, highways, etc.) in the form of Grants-in-aid.

II. Fiscal Federalism

- A. Conditions of Aid - Instructions from the national government that the states must follow in order to qualify for the grant money.
 - 1. If you don't want to abide by the conditions then don't take the money.
 - 2. Unfortunately over the years, states have become very dependent upon federal grant money to meet their own budget requirements.
 - 3. Therefore, grants-in-aid with conditions of aid attached have become a way for the federal government to exert control over the states.

II. Fiscal Federalism

- B. Types of Grant-in-Aid
- 1. Categorical Grants - Grants for a very specific purpose determined by the federal government (The money must be used to build *this* bridge, *this* school, etc.)
 - a. These grants allow the states almost no flexibility in how the money is spent.
- 2. Block Grant - Grants for broad purposes (Infrastructure or Education)
 - a. These grants allow the states much more flexibility in how the grant money is spent.

II. Fiscal Federalism

Revenue Sharing



- C. Revenue Sharing
 - Federal aid provided to state governments to be used for almost any purpose that the state saw fit.
- 1. Begun in 1972, Revenue sharing was ended by Ronald Reagan in 1986

III. Mandates

- - Orders by the national government to the states that they cannot refuse.
- A. Funded Mandates - Mandates that provide federal funding that the state can use to comply with the new federal instructions.
- 1. Example: Update your highway infrastructure in accordance with these new federal regulations, and here is some federal money to do it with.

III. Mandates

Unfunded Mandates



- B. Unfunded Mandates - Mandates that do not provide any funding to the states to assist them in complying with the new federal instructions.
- 1. The Classic Example: The Americans with Disabilities Act - Required state and local governments to provide the disabled with equal access to services, employment, buildings, and transportation systems, but did not include funds to help defray the cost.

IV. Devolution

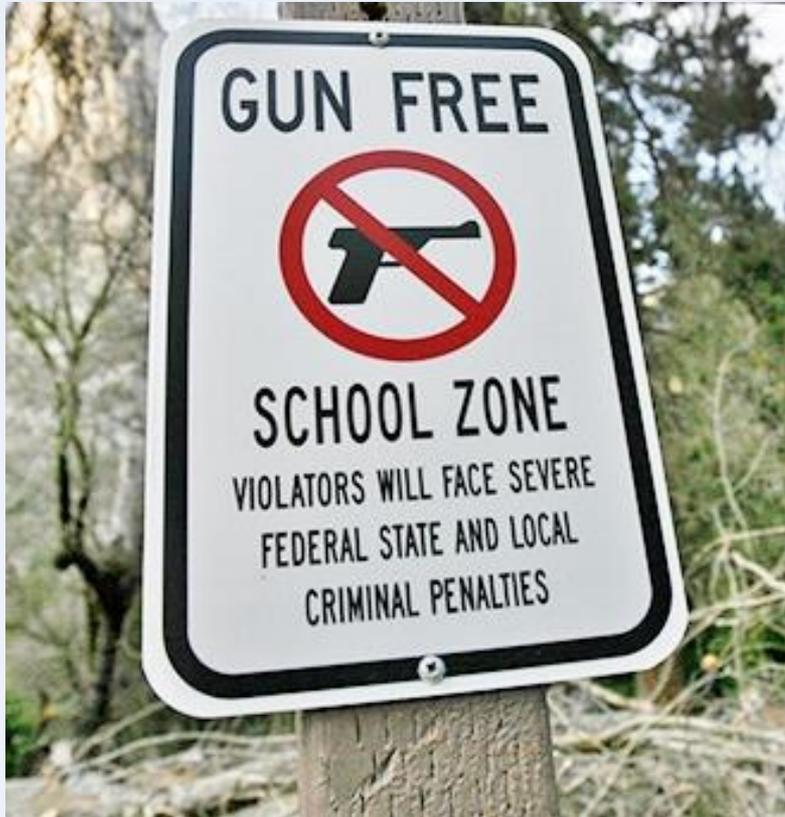
- - Efforts to return more governmental functions back to the state governments.
- A. It started with the election of Republican majorities to the House and Senate in 1994

IV. Devolution



- B. The first key issue was welfare reform which turned management of the AFDC Program (Aid to Families with Dependent Children) over to the states.

V. Lopez v United States



- A. In 1990, Congress passed The Gun-Free School Zones Act which made it a federal offense "for any individual knowingly to possess a firearm at a place that the individual knows, or has reasonable cause to believe, is a school zone."

V. Lopez v United States

- 1. Congress claimed that they had the power to do this under the...
- Interstate Commerce Clause
- 2. The government argued that guns in schools:
 - a. lead to violent neighborhoods that hurts local commerce.
 - b. Cause students to become less economically productive adults.

V. Lopez v United States

- B. In a 5 to 4 decision, the US Supreme Court ruled that the law was unconstitutional (violated the constitution and had to be cancelled) because creating gun-free school zones was not an example of regulating commerce.

V. Lopez v United States

- 1. Chief Justice William Rehnquist wrote, "Under the theories that the Government presents in support of [the Act], it is difficult to perceive any limitation on federal power, even in areas such as criminal law enforcement or education where States historically have been sovereign. Thus, if we were to accept the Government's arguments, we are hard pressed to posit any activity by an individual that Congress is without power to regulate."

V. Lopez v United States

- 2. Unlike *McCulloch v Maryland*, *Lopez v US* is an example of the Supreme Court limiting rather than supporting the expansion of Congress' powers under the Commerce Clause.

VI. The Future of Federalism



- A. The relationship between and responsibilities of the state and national government continues to evolve.
- B. Federalism will be with us for the rest of the course!