

Chapter 4

SECTION 2: American Federalism: Conflict and Change (pp. 103–110)

Main Idea

Over the past 200 years, conflicts over the balance of power between the national and state governments have led to different trends in federalism.

Reading Focus

1. What role does the Supreme Court play in American federalism?
2. How was government power divided in dual federalism?
3. What events caused the expansion of national power in the twentieth century?
4. What is new federalism?

Key Terms

dual federalism
doctrine of nullification
doctrine of secession
cooperative federalism
creative federalism
new federalism
devolution

Role of the Supreme Court

(p. 104)

The Framers gave the Supreme Court the power to resolve any conflicts that arose between the nation and the states regarding conflicting laws and other disputes. Article III of the Constitution gives the judicial branch the authority to hear cases involving the Constitution, U.S. laws, and disputes between the states.

The Framers also addressed the question of how to resolve conflicts between the states and the national government in Article VI of the Constitution. This article includes the supremacy clause.

For about 200 years, the Supreme Court's interpretation of the supremacy clause and other articles of the Constitution has gradually increased the power of the national government. This trend would not be broken until the 1980s.

Over time, American federalism has gradually changed. The changes can best be understood in terms of four historical eras:

dual federalism, cooperative federalism, creative federalism, and new federalism.

Reading Check Identifying the Main Idea What is the role of the Supreme Court in the federal system?

Dual Federalism (pp. 104–106)

The first era of American federalism, dual federalism, lasted from about 1789 to the 1930s. Under **dual federalism**, both state and national governments were equal authorities operating within their own spheres, or areas, of influence, as defined by a strict reading of the Constitution. The powers of the national government included only those powers listed in the Constitution.

The Great Debate From our nation's beginning dual federalism was at the center of a great debate. On one side stood nationalists, or people who supported a strong, centralized government. On the other side were those who supported states' rights.

The debate came to a head in 1790 over the creation of a national bank. Nationalist

Alexander Hamilton urged Congress to create the bank. States' rights supporter Thomas Jefferson opposed its creation, claiming it was unconstitutional for Congress to create banks. Hamilton argued that the power fell under Congress's ability to regulate currency. Congress sided with Hamilton and created a 20-year charter for the First Bank of the United States. However, because many questioned the constitutionality of the action, the charter was not renewed.

When Congress created the Second Bank of the United States in 1816, the dispute began again. Maryland had placed a tax on all banks operating within the state, but James McCulloch, an officer at a Maryland branch of the national bank, refused to pay the tax.

The Marshall Court The bank dispute reached the Supreme Court in the case *McCulloch v. Maryland* (1819). The Court, which was strongly nationalist and headed by Chief Justice John Marshall, ruled in favor of the nation's authority to create a national bank. Marshall said that it was reasonable for the nation to exercise an implied power to start a bank since it would help the nation regulate commerce and currency. Marshall also said that the states could not tax a national institution—this violated the supremacy clause. This case started a trend of Court rulings that greatly expanded the powers of the national government.

“A House Divided” Another issue wrapped up in arguments over state versus national power was slavery. The slave states—the southern states—resisted all measures taken by the national government to outlaw slavery in new states and territories. Politicians in some southern states believed that states had the right to nullify, or cancel, national laws that contradicted or clashed with state interests.

This was known as the **doctrine of nullification**.

According to the doctrine of nullification, if a state challenged a national law, three-quarters of the other states would have to ratify an amendment allowing Congress to enact the law. At that point, the state that had challenged the law could either choose to follow the law or separate from the Union. The idea that states had the right to separate themselves from the Union was known as the **doctrine of secession**. Secession, a formal separation, was the most extreme option for those who believed in state sovereignty.

The issue of state sovereignty would soon come to a head. In 1858 the Republican nominee for an Illinois Senate seat, Abraham Lincoln, made a speech against the divisive nature of slavery. He stated that “A house divided against itself cannot stand.” He meant that the United States could not continue half slave, half free. When Lincoln was elected president in 1860, events quickly led to secession and the Civil War. Eleven states seceded and formed the Confederate States of America. The Civil War began in 1861 and continued for four bloody years.

After the Civil War In 1865 the Confederacy surrendered, and the Union was restored. Slavery ended, and the Union's victory firmly established the supremacy of the national government. States could no longer nullify national laws or withdraw from the Union. Congress's powers also expanded with the passage of the Thirteenth, Fourteenth, and Fifteenth amendments to the Constitution. These amendments abolished slavery, defined citizenship, prohibited states from denying citizens' rights, and extended voting rights to African American men. In time, the national government would use its new constitutional powers to protect the rights of

African Americans, women, and other groups of people from discrimination by state and local governments.

Reading Check Identifying

Supporting Details What effect did the Civil War have on the doctrine of secession?

Expanding National Power (pp. 108–109)

The Civil War reinforced the supremacy of the national government over the states. Other challenges in later years continued this shift in power.

Turn-of-the-Century Reforms The end of the 1800s was a time of tremendous change in the United States. New technologies, such as railroads and the telegraph, and a growing population changed how Americans lived and worked. With these changes came new social and economic problems. The national government passed legislation to deal with many of these problems. Examples of new legislation include:

- Interstate Commerce Act (1887)—regulated the railroad industry, setting restrictions on the rates railroad companies could charge
- Sherman Antitrust Act (1890)—prevented monopolies, or the exclusive control of a good or service in a particular market

Several Supreme Court cases did limit the reach of national power, however. In *United States v. E.C. Knight Company* (1895), for example, the Court ruled that a combination of sugar refining companies was not a monopoly under the Sherman Antitrust Act.

The New Deal In the 1930s an economic crisis led to another expansion of the authority of the federal government. In 1929 the American stock market crashed, triggering a major economic downturn

known as the Great Depression. Poverty and unemployment became widespread. In 1933 President Franklin Roosevelt responded with a relief plan. His program, the New Deal, created a series of national programs to help the unemployed, feed the hungry, protect homeowners, and create jobs. This was the first time the national government had assumed responsibility for the social and economic welfare of its citizens. Since the national and state governments worked together to meet the crisis, federalism under the New Deal was known as **cooperative federalism**.

Many New Deal programs were challenged in court. Opponents argued that the constitutional powers to tax and regulate commerce did not give the national government the power to enact many New Deal programs. However, the Supreme Court upheld most New Deal programs.

The Great Society In the 1960s President Lyndon Johnson further expanded the powers of the national government with his Great Society program aimed at ending poverty and social inequality. Johnson called his approach to solving national problems **creative federalism**. It involved releasing national funds, in the form of grants to state and local communities, to achieve national goals. If the national government thought that the states were not fully cooperating with the programs, it could withhold funding to the states. The grant system greatly increased the size and cost of national government. Such spending soon raised concerns about the power of national government.

Reading Check Summarizing How did New Deal and Great Society programs change federalism?

New Federalism (p. 110)

Throughout much of U.S. history, the powers of the national government

expanded. Beginning in the 1980s, many political leaders worked to reverse this trend by returning authority to state governments. This era is known as **new federalism**.

The Reagan Years During the 1980s President Ronald Reagan worked to reduce the size of government by cutting national grant money to the states. He also relaxed national requirements on how grant money could be spent.

The Devolution Revolution Following Reagan's example, Republican candidates in the 1994 congressional elections ran with a political message they called the Contract with America. Central to the Contract with America was the idea of returning power to

states, a concept known as **devolution**. The Contract promised to reduce the size and power of the national government and to review federal spending.

Some people opposed the Contract, saying that it would lead to greater social and economic inequality and end needed programs. Concerns about the size of government reached across party lines, however, leading then Democratic president Bill Clinton to say: "The era of big government is over."

Reading Check Identifying

Supporting Details How did Ronald Reagan try to reduce the influence of the national government?

SECTION 2 ASSESSMENT

1. **Identify** What is the supremacy clause?
2. **Recall** What is **dual federalism**?
3. **Identify** What was the **doctrine of nullification**?
4. **Recall** Why were reforms passed at the end of the 1800s?
5. **Contrast** How did new federalism differ from previous ideas about federalism?