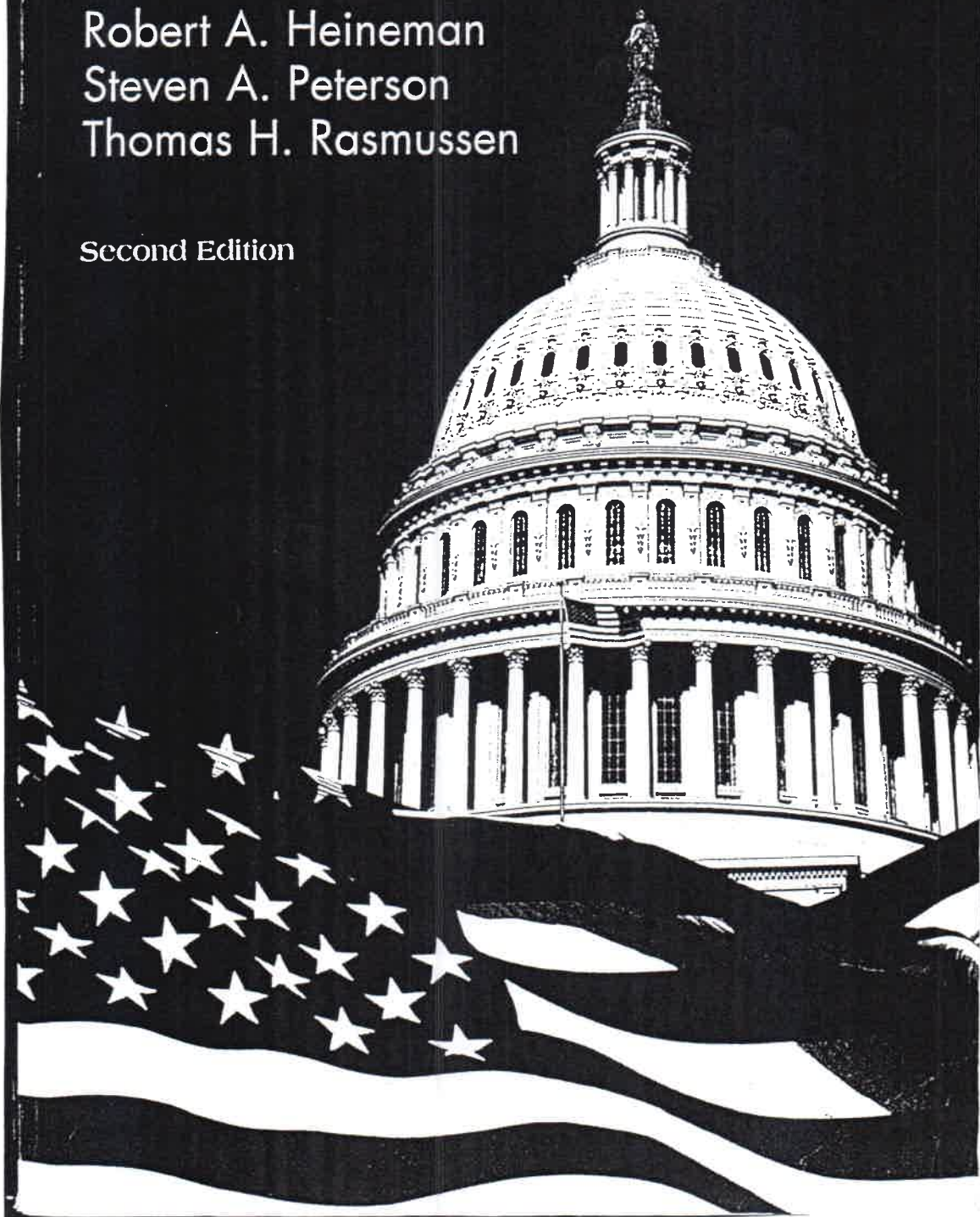


American Government

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CHAPTER 3

The Federal System: Structure and Dynamics

Time Line

- 1937 Supreme Court abandons dual federalism doctrine and withdraws it as limit on economic policy
- 1953 Kestnbaum Commission is established to examine effects on federal system of growth in federal programs
- 1962 In *Baker v. Carr* (369 U.S. 186), the Supreme Court declares that federal courts have jurisdiction over malapportioned state legislatures
- 1965 Passage of Voting Rights Act provides first effective protection for black voting rights
- 1963–1968 Great Society expansion of categorical grant-in-aid programs
- 1969–1976 Nixon-Ford movement toward greater grant flexibility with establishment of general revenue sharing and increase in block grants
- 1981–1988 Reagan administration slows domestic spending, ends general revenue sharing, and increases use of block grants

1862 Enactment of the Morrill Act providing for land grants to states for institutions of higher education in agriculture and technology

1913 Passage of Sixteenth Amendment providing for federal income tax

1914 Enactment of Smith-Lever Act establishing the Agricultural Extension Service, the first modern grant-in-aid program

1923 Supreme Court holds federal grant-in-aid programs immune from judicial challenge

1929 Beginning of Great Depression and increase in federal aid to states and localities

1933–1937 Many New Deal initiatives ruled unconstitutional by Supreme Court under dual federalism doctrine

Federalism is a form of government in which power is distributed between two levels of government within the same geographic territory. Thus, in the United States, most citizens are subject to both a state government and the national government. A unitary system of government, in contrast, concentrates all power at the national level. In a nation such as France, all power stems from Paris; local or regional units of government are creations of the central government and serve as administrative units of the national government. There are advantages and disadvantages to federal systems and to unitary systems. Either may be democratic, although it is difficult to envision a federal system being totalitarian.

This chapter sets forth the framework of American federalism and examines some of the relationships that have evolved within it. The Constitution defines the basic elements of the federal system; judicial interpretation has served to keep these elements in a working balance. The spending power of the national government has been a significant factor influencing the evolving dynamics of federalism. Political parties, too, have played a role; they have enhanced the power of the states and have provided the energy for advancing policies at both the national and state levels. The chapter concludes with a brief look at relations among the states and among local governments.

The Federal System: An Overview

The federal system differs markedly from the confederation that preceded the Constitution. The Articles of Confederation provided for a national governmental system that gave the states supremacy. The national Congress was a meeting place for representatives of the states. No effective action could be taken without unanimous consent of the states. The national government could act only with state approval. The key distinction between the national government under the Articles of Confederation and that under the Constitution is that the latter can act directly on individual citizens while the former could not. It is this difference that allows the national government under the Constitution to be powerful. As most citizens are aware, if the national government wishes to raise an army or to collect taxes, it will contact them directly. This was not possible under the Articles of Confederation.

The basic structure of American federalism provided in the Constitution does not encourage a highly coordinated or efficient approach to government, but it does allow democratic government to function over a society of tremendous diversity. Moreover, it allows the heterogeneity and freedom that give strength to American democracy. Constitutional interpretation, political change, demographic movement, economic growth, and the clash of policy views have modified and elaborated this framework. At issue has been a balance of power between state and national governments that has shifted back and forth throughout American history.

The federal system is often described in terms of national, state, and local governments. In a sense, this is functionally correct: there are national, state, and a wide variety of local governments in the United States. In terms of power, however, this description is misleading. There are only two sources of government power in the United States: the national government and the states. All local governments derive from state power. Cities, towns, and counties are created by states and can be eliminated by states. They have no power independent from that given to them by the state governments. Moreover, under the standard of legal interpretation known as Dillon's rule, state grants of power to its subdivisions are to be interpreted narrowly in favor of the state.¹

Constitutional Framework

The Constitutional Document

The Constitution spells out the basic structure of American federalism. It specifically limits the national government to the powers given to it therein. The national government is, however, supreme in this area of power.

As described in the Tenth Amendment, states may exercise powers that do not conflict with acts of the national government or that are not prohibited by the Constitution. Unlike the national government, the states possess police powers, that is, powers that are inherent in a government's duty to act for the health, welfare, morals, and safety of its citizens. Following the language of the Tenth Amendment, these powers are often called the "reserved powers" of the states. The states are protected in a number of ways from being threatened as states by the national government. The Constitution provides that a state's representation in the Senate may not be changed without its consent. A state may not be partitioned or merged with another state against its will. Furthermore, the Constitution may not be amended without ratification by three-quarters of the states.

Judicial Interpretation

Supreme Court interpretations of the meaning of constitutional clauses and of the extent of national power have played an integral role in the development of American federalism. In the early years of the Constitution, the states continued to believe that they retained the autonomy they had under the Articles of Confederation. They were reluctant to concede power to a national government. In this respect, the role of the Supreme Court was crucial. Although the Court's interpretations of the extent of national power have varied, it has consistently maintained the supremacy of its decisions and of national law over state power.

The Marshall Court

The Supreme Court, under Chief Justice John Marshall from 1800 to 1835, used its interpretations of the Constitution to place national power on solid legal footing. In addition to being a good jurist, Marshall was an able politician. Under his guidance, the Court confronted numerous state challenges to national power by deftly maneuvering to deal with only one or two obstreperous states at a time. In this fashion, the Court could bring the weight of other states along with its judicial reasoning to bear on dissident states.

At the same time, the Marshall Court was interpreting the delegated powers of Congress broadly. Congress's power over commerce among the states was given an expansive interpretation in *Gibbons v. Ogden* (1824),² and in *McCulloch v. Maryland* (1819).³ The Court construed the "necessary and proper" clause of the Constitution as granting additional power to Congress. In the *Gibbons* case, New York had given Ogden, a former partner of Gibbons, a monopoly over steamboat traffic in New York state. Gibbons, who had a federal license to ply his steamboat trade from New Jersey to New York City,

claimed that this authority overrode the state monopoly. The Court agreed with Gibbons that in the area of commerce among the states, congressional power superseded state power. The *McCulloch* decision was the culmination of struggles between state banking interests and those supporting a national bank. Maryland imposed a heavy tax on any banks not chartered by the state, which, of course, was aimed directly at the branch of the national bank in Maryland. The Supreme Court gave an expansive definition of Congress's right to implement powers delegated to it in the Constitution and declared unconstitutional state attempts to limit this authority through taxation.

Dual Federalism

The Supreme Court has not, however, always been a strong supporter of national power. During the period from approximately 1875 to 1937, the Court developed the constitutional doctrine of dual federalism as a limit on Congress's power to regulate corporate property. Under this doctrine, the Tenth Amendment was interpreted as defining the boundaries of national power. The powers reserved to the states were seen as posing barriers at the state lines to the exercise of national power. Thus, attempts by Congress to regulate child labor in the states were thwarted by the Supreme Court's use of the dual federalism doctrine. A narrow majority of the Court argued that manufacturing is a local activity whose control was reserved to the states by the Tenth Amendment. Congress's delegated powers, whether those of commerce or taxation, could not intrude into this area of activity to regulate the employment of children.⁴ During the first third of the twentieth century, the dual federalism doctrine was a serious limitation on national power.

Decline of Dual Federalism

The beginning of the end of the dual federalism doctrine was the election of Franklin Delano Roosevelt to the presidency in 1932. At first the Court continued to have the upper hand. Most of Roosevelt's New Deal measures were ruled unconstitutional by the Court, many under the dual federalism doctrine. With his reelection in 1936 by a huge majority, however, the President focused on the Court. His threat to pack the Court, which is related in detail in Chapter 11, moved that body to reexamine its approach to national power. The result was that the dual federalism doctrine as a limit on national power was laid to rest. Since 1937, the Supreme Court has been extremely reluctant to overturn any exercise of congressional power in the area of economic and social regulation.⁵ Consequently, the national government has been able to extend its power dramatically. This extension of national power reached its apex under Lyndon Johnson and his Great Society efforts to change America.

State Power Today

Today the Court continues to defer to the exercise of national power. In terms of national-state relationships, the only times such power comes under extensive scrutiny by the Court are when that power appears to threaten the functions of states as states.⁶ In *New York v. United States* (1992),⁷ the Supreme Court again asserted the importance of the Tenth Amendment in defining the allocation of power within the federal system. In the Low-Level Radioactive Waste Policy Amendments of 1985, Congress had required that states take title to hazardous nuclear waste at a waste generator's request if the state has not established disposal sites by the deadline provided in the statute. The Supreme Court held this to be an unconstitutional extension of Congress's power. It declared that even though the states had agreed to allow Congress to act in this fashion, it could not do so. In this instance, the Court was especially concerned that the states were hiding behind a congressional mandate to shield themselves from having to take responsibility for the politically difficult task of disposing of nuclear waste.

While granting wide discretion to national power in the areas of economic and social policy, the Court also has become more deferential to the exercise of state power where individual liberties are involved. Unlike the Warren Court, for example, the Burger Court and Rehnquist Court have been more willing to allow states to enact measures defining individual rights. The states may not, of course, define rights more restrictively than the boundaries set by the Supreme Court. But they are free to define them more expansively, and in states with high courts more liberal than the Supreme Court, individuals may have greater protections than those provided by the Supreme Court or the courts in other states. Thus, in keeping with the policy preferences of Presidents Nixon, Ford, and Reagan, the Court has countenanced a greater flexibility and freedom in state policy initiatives.

The Evolution of Fiscal Federalism

The Grant-in-Aid Policy

While expansion of the national government's delegated powers has proceeded at a rapid pace since 1937, the power of the national government to spend for the general welfare has been an instrument of national policy since at least the middle of the nineteenth century. In this regard, the grant-in-aid has been a device often used for implementing national goals at the state and local levels. Through the grant-in-aid procedure, the national government makes funds available to governments that meet specified standards.

Perhaps the first modern grant-in-aid program of significance was the Morrill Act of 1862, in which Congress made land grants available to states that established agricultural and technical colleges. These land-grant colleges have since grown into major universities throughout the United States.

Grants-in-Aid Become Established

The grant-in-aid approach to expanding national power gained momentum in the twentieth century for several reasons. First, the enactment of the Sixteenth Amendment allowing the national government to levy an income tax supplied that government with an enormous source of income that the states could not hope to match. Second, the Smith-Lever Act of 1914 establishing the agricultural extension service provided a prototype for later grants-in-aid.⁸ It established national standards that had to be satisfied, and it required matching funds from state and local governments. Third, in 1923 in the companion cases of *Frothingham v. Mellon* and *Massachusetts v. Mellon*,⁹ the Supreme Court held that grants-in-aid are immune from judicial challenge. Thus, while other national programs and efforts at regulation were being ruled unconstitutional by a conservative Supreme Court, grant-in-aid programs were free from such attacks.

It should be noted parenthetically at this point that these early decisions were modified somewhat by *Flast v. Cohen* (1968),¹⁰ in which the Court held that when a grant-in-aid program appears to contravene a specific prohibition of the Constitution, a taxpayer may have standing to sue to challenge that program. This doctrine has been narrowly applied, however, and other than in cases questioning programs that appear to aid the establishment of religion, it has not had an effect on grant-in-aid projects.

The New Deal

The Great Depression led to an expansion of government aid programs. At its beginning, the national government simply made millions of dollars of aid available to the states to help the unemployed. Later, these programs were given specific functions. Those grant-in-aid programs which survived the New Deal were the basic entitlement grants providing assistance to the blind, the disabled, and dependent children.

The Kestnbaum Commission

During the years after World War II, some new grant-in-aid programs were established, but their number was not large. Nonetheless, suggestions that the states might be threatened by the increase in national programs caused President Eisenhower concern. In response to his urging, Congress in 1953 authorized the establishment of the Commission on Intergovernmental Relations

(usually termed the Kestnbaum Commission after Meyer Kestnbaum, its chair) to examine the state of the federal system. Generally, the commission found that a healthy diversity remained in the federal system. As a result of the interest in intergovernmental relations and the respect given to the work of the Kestnbaum Commission, the Advisory Commission on Intergovernmental Relations was established in 1959. This agency conducts studies of the changing relationships between the national government and state and local governments and is the source of much valuable information in this respect.

The Great Society

The activities of the Johnson administration revived concern that the fiscal power of the national government would seriously weaken state governments as important governmental units. With his Great Society program, Lyndon Johnson sought to remake American society, and one of the primary tools for this was the grant-in-aid. The number of federal grant-in-aid programs has been estimated at 29 in 1945. This number reached 181 by 1964 and more than doubled under the Johnson administration to approximately 387 in 1968.¹¹ Today there are almost 600 grant-in-aid programs, with a huge proportion of these originating in the Great Society programs or later amendments to those programs. In the words of Kenneth T. Palmer, "The effect of the work of the Eighty-ninth Congress [1965–1966] was to diffuse grants-in-aid throughout the domestic functions" of government.¹² In this respect, the Johnson administration was truly a watershed in the history of fiscal federalism. Its heavy use of grants-in-aid continues to have political ramifications throughout the American political system.

Through grant-in-aid programs, the Johnson administration provided funds for education, housing, health, employment, and the poor. It was this latter area that raised the most controversy and had the greatest effects on the federal system. In its "war on poverty" effort headed by the Office of Economic Opportunity, the Johnson administration channeled funding directly to the disadvantaged. It specifically avoided using traditional state and local social service agencies and established federal field agencies at local levels. The intent was to create constituencies of the poor who would be responsible for guiding programs intended to aid them and who would be politically active in protecting those programs.¹³

The effects of the Johnson administration's efforts on the federal system deserve detailed comment. Clearly, the Johnson people assumed the political viability of a pluralistic model of democracy in which programs survive because they build constituency support among the people whom they serve. The Johnson administration chose to construct such constituencies by design.

The contribution of these programs to alleviating poverty remains a matter of debate among social scientists. Their ramifications for federal relationships receive more general agreement.

First, these programs did not mesh well with other national programs at local levels. There was often competition and misunderstanding between them and traditional social service efforts undertaken by social security offices and the Labor Department, for example. Second, the local community action agencies and boards organized to implement the antipoverly programs created political bases of power separate from the traditional urban party organizations. Furthermore, these agencies had considerable amounts of money to spend. Governors and mayors saw their traditional party structures threatened by this new development, and Congress, responding to their concerns, eventually gave local officials more power over the community action agencies. Third, an exceptionally important spinoff of this new organizational activity at the local level was increased participation by blacks in urban politics. Fourth, the mechanism used heavily by the Johnson administration was the categorical grant-in-aid. (All but two of the 387 grant-in-aid programs in 1968 were categorical.) This approach funneled money to specific targets for specific purposes. It allowed localities little discretion in how the money was to be used. Administrators at the national level saw this as a way to protect minorities and the disadvantaged. State and local officials, on the other hand, resented this extension of national regulations and power into the local level.

Reaction Against National Power

The years since the Great Society have witnessed a fairly consistent reaction against the centralization of policy at the national level. The challenge has been to find ways to deliver federal financial assistance to the states and localities without being heavy-handed.

"Marble-Cake" Federalism

In the period following World War II, Morton Grodzins described the federal system as a "marble cake."¹⁴ He argued that the tendency had been to view the federal system as a kind of three-layered cake with functions and relationships neatly divided and distinguishable. But this was not accurate. Programs often intermixed functions and funding from national, state, and local levels in a marble-cake type of arrangement.

"Picket-Fence" Federalism

Later, the activities and extensive use of categorical grants-in-aid under the Great Society led to depiction of intergovernmental relations as picket-fence federalism. The argument here was that categorical grants were so en-

cumbered with regulations and so specialized that the programs they funded resembled fence pickets that extended from the national to the local level. Deil S. Wright suggests that at least eleven identifiable general functional areas—highways, welfare, education, hospitals, mental health, libraries, airports, urban renewal, agriculture, vocational education, and public housing—met this description.¹⁵ These programs were implemented by experts or professionals, such as social workers, teachers, and engineers, whose power was bolstered both by their expertise and by federal regulations. One result of this dominance of programs by experts was that from the national level to the local level these people interacted among themselves more easily than they interacted with elected officials, who were supposed to be their bosses.

Other Problems with Categorical Grants-in-Aid

There were other problems with categorical grants-in-aid that caused concern for local government officials. These grants led to what was labeled "hardening of the categories." Grants formulated at the national level could not take into account the variety of circumstances and needs at the local level. A city might need funds for more libraries, but if national funds were available for parks, the city's officers would find themselves pressured to apply for the money that was available. Libraries would be lost in the shuffle as city resources and priorities were oriented toward receiving money for parks. This is simply a hypothetical example, but the point is that the use of categorical grants-in-aid tended to cause local governments to skew their priorities toward the national definitions of need.

Categorical grants-in-aid also favored those governments which could obtain good grantspeople, individuals skilled in obtaining monies. Many rural areas were simply left out of the competition for funds because they had no databases or people capable of putting together a respectable grant request.

Finally, the requirements attached to categorical grants-in-aid caused continuing difficulties for state and local governments. These requirements had to be met in order to receive funds. However, there was no guarantee that the national government would not attach other requirements later. For example, long after state governments had become heavily dependent on federal highway funding, the national government decided to require states to raise the drinking age to 21 or give up portions of their funds.

Private institutions that receive federal funding also feel the burden of these kinds of mandates. One of the more controversial proposals in this respect was President Nixon's suggestion that colleges and universities with students receiving federal aid—a category including almost all such institutions—be required to allow federal agents on campus to monitor student unrest. Fortunately, this idea was rather quickly discarded by Congress.

States Gain in Political Capacity

Much of the impetus behind the categorical grant-in-aid approach had been the belief that the states could not be trusted to be responsible or equitable with funds. Serious problems were caused by the rural dominance of state legislatures, which discouraged concern with the problems of urban areas and with more effective government generally, and by electoral discrimination against blacks in the southern states. However, during the 1960s, several events occurred that enhanced the status of the states. One of these was federal court intervention in the districting of state legislatures. The Supreme Court's standard of "one person, one vote" forced the state legislatures to reapportion. The result was that urban and suburban areas for the first time received their fair share of representation in the nation's state legislatures. Another important event was the enactment of the 1965 Voting Rights Act, which gave blacks in the South effective voting power. This newly acquired power soon was reflected in local, state, and national elections. Finally, many states revamped their governmental structures to make them more efficient. State experiments with approaches to environmental control, health care, and tax policy began to serve as models for national action.

Fiscal Flexibility: Nixon through Reagan

Beginning with the Nixon administration, the national government became more sensitive to state and local concerns that they were being dominated by national fiscal prowess. President Nixon responded to state demands for more policy flexibility with more flexible federal grants.

General Revenue Sharing

General revenue sharing, enacted in the State and Local Assistance Act of 1972, was the most innovative of the Nixon proposals. Under this approach, states and localities received a portion of the federal income taxes that their citizens paid. These funds had few strings attached and left the states and localities wide latitude in how the funds could be spent. The rationale for this funding was that the national government was returning to these political units some of the revenue that it took from them with the income tax.

Special Revenue Sharing

This period also saw the institution of what was called special revenue sharing. Special revenue sharing was similar to what was later called block grants. Under special revenue sharing, a number of categorical grants were combined into funding for a general area in an attempt to reduce the diversity of regulations and the policy fragmentation that had been created by the

tremendous growth in categorical grants-in-aid. For example, Urban Renewal, Model Cities, and other urban grants were combined into a general program for community development.

Block Grants

The Johnson administration had begun to respond to pleas for greater flexibility in federal funding with block grant programs under the Partnership in Health Act of 1966 and the Law Enforcement Assistance Administration established in 1968. Under Presidents Nixon and Ford, this trend continued. Three major new block grant programs were initiated: the 1973 Comprehensive Employment and Training Act (CETA) and in 1974 the Community Development Block Grant Program and Title XX of the Social Security Act, which provided funds for social welfare programs. Generally, these programs achieved their goal of giving more discretion to state and local governments. A less positive development was that those disadvantaged segments of society which had been protected by the regulations accompanying categorical grants-in-aid were under the new approach more dependent on the decisions of state and locally elected officials. The result was a tendency for the funding from these programs to drift toward the less disadvantaged but more politically articulate portions of the community.¹⁶ The CETA program in particular received a great deal of criticism in this respect, and in 1978, the Carter administration tightened the eligibility requirements in an attempt to direct funds to the most needy. Finally, under the Reagan administration, CETA was replaced by the Job Training Partnership Act of 1982. This act retained local discretion in the use of funding but focused the program more heavily on training and employment in the private sector.

The Reagan administration approached the use of block grants in a somewhat more calculating fashion than had the Nixon administration, with the primary goals of lessening federal domestic spending and giving the states more control over spending. President Reagan was concerned that despite efforts to consolidate federal funding, expenditures and the number of grant programs had continued to increase. Between 1967 and 1980, the number of federal grant programs grew from an estimated 379 to 539.

Throughout his administration, Reagan worked at cutting federal domestic spending and merging specialized grant programs into block grants, but his most significant attack on the proliferation of grant-in-aid programs came early in his administration in the Omnibus Budget Reconciliation Act of 1981. This measure consolidated 54 categorical grant programs into 9 block grants. Thus, in 1991, the total number of federal grant programs remained about the same as in 1980 (approximately 557 as compared to 539), although total spending for them had risen sharply; and, while Reagan's use of block grants

had some effect on the structure of federal aid, 80 to 90 percent of grants remained categorical in form. Although President Reagan had hoped that the use of block grants-in-aid would weaken the constituencies supporting specific programs, these interests remained powerful obstacles to further reduction in the number of federal programs and provided continuing support for increased funding for established programs.

Opposition to the "New Federalism"

Opposition to Reagan's "new federalism" developed quickly, however. State officials liked the lessening of federal regulations and the greater latitude they had in spending the funds in the new block grant programs.¹⁷ Arkansas Governor Bill Clinton spoke for many other state chief executives when he told President Reagan, "Whether we agree with you or not, we all admit that you've made us more important."¹⁸ However, under the Reagan administration, the price of this increased importance was less money, and state officials vigorously opposed the decrease in federal funds that accompanied the change in grant format. Moreover, local officials, who had often developed close relationships with federal funding sources, now found themselves dependent on their state governments for less funds. State and local officials also were unhappy when general revenue sharing was terminated as part of the Reagan administration's efforts to reduce federal spending. General revenue sharing was never popular with Congress, basically because members of Congress received no personal credit for dispensing the funds. When spending cuts had to be made, general revenue sharing was one of the more vulnerable programs, even though many cities had become heavily dependent on the funding.

Disruption of Established Political Relationships

President Reagan liked the increased autonomy that block grants provided the states, but he also understood that block grants weakened vested political interests that continually pushed for increased funding. With fewer requirements to be met for receiving funds, there was less need in national agencies for specialists whose primary responsibilities focused on one narrow program. Categorical grants-in-aid encouraged the proliferation of such specialists and tied them to the clientele being served and to the congressional committees and subcommittees funding and authorizing the programs. These relationships became cozy triangles, or subgovernments, that as almost self-sustaining political entities could be important obstacles to presidential policy and direction. Block grants, however, undermined these relationships by eliminating the specialization in programs, thus removing the incentive for specialized political interest support.

The move from categorical grants-in-aid to greater use of block grants also disrupted established political relationships at the level of local politics. The Johnson administration had encouraged the participation of citizens in the making of funding decisions at the local level. Many of the new federal programs required locally elected boards for this purpose. The ideal of local democracy has, of course, been important to many American thinkers. In practice, however, it was difficult in most urban areas to arouse much interest at all in the elections of these federally mandated boards. The result was that these boards were often elected by a handful of citizens. It would be hard to argue that such boards were very representative. Nonetheless, they created constituencies for the categorical grant-in-aid programs with which they were involved, and they became part of the local policy process where their interests were concerned. When, however, the categorical grant-in-aid programs were melded into block grants, the existence of these boards at the local level was threatened, as was their continued funding. Local officials were then faced with irate citizens, some of whom were both vociferous and nasty. In this respect, national policy decisions had direct and difficult policy ramifications for local governments.¹⁹

An Era of National Fiscal Duress

A ballooning federal budget deficit and increasing voter resistance to higher taxes played an important role in determining the contours of fiscal federalism under the Bush and Clinton administrations. Facing these factors, Presidents Bush and Clinton were simply unable to continue to offer federal funds as incentives for major new policy initiatives. Those new grant programs that were enacted during the Bush administration were quite small in comparison to the huge amounts that were required for established health and welfare grant programs such as Medicaid and Aid to Families with Dependent Children (AFDC).²⁰ Thus, the search for new approaches for dealing with national problems began to turn toward revised relationships with the states. An example of this orientation was the Family Support Act of 1988, passed in the last year of the Reagan administration. This legislation relied heavily on giving the states greater flexibility in trying to move individuals off welfare, allowing states to offer limited fiscal incentives to keep two-parent families together and financial and technological assistance in helping to trace the fathers of those children on welfare. President Clinton's efforts to reform the health care system also reflected the need to draw on greater state cooperation, reduce federal paperwork requirements, and insist that private enterprise bear a greater share of the financial burdens. Within this new context, it seems clear that new federal initiatives on the scale of the Great Society are simply

out of the question and that the states will continue to be important sources of new policy ideas.

Both block grants-in-aid and categorical grants-in-aid remain important forms of federal assistance to states and localities. Some of these are project grants; they are awarded on the basis of applications made for them. Others are allocated according to formulas or eligibility. AFDC and Medicaid, for example, are entitlement programs under which people become eligible for funds based on formulas. If individuals meet the criteria established by statute or administrative regulation, they are legally entitled to the benefits of the program.

Cooperative Federalism

American federalism is a much more informal, cooperative, marble-cake kind of system than judicial decisions or discussions of fiscal relationships alone might indicate. Professional associations offer opportunities for government people from the various levels of the federal system to interact at conferences and to share ideas through journals and other publications. These associations are especially important in setting standards of conduct and in encouraging new approaches to problems. Also, many national agencies look to the personnel at the state and local levels for effective implementation of their programs. In law enforcement generally, cooperation among various governmental units is essential to the successful prosecution of crime.

Grodzins used the Federal Bureau of Investigation (FBI) as an example of a federal agency that is heavily dependent on local law enforcement organizations for information. At the same time, he pointed out, the FBI provides training and other services to local law enforcement people.²¹ The use of computer networking and improved databases has made such cooperation even more effective in law enforcement.

Intergovernmental Relations Among States and Localities

While the interplay between the national government and the states tends to dominate the dynamics of the American federal system, other governmental interrelationships also play a role in constructing policies that will affect citizens.

State-State Relations

The Constitution contains several clauses intended to facilitate interaction among the states and protect individuals moving from state to state. In Article IV, Section 1, the Constitution requires that "Full Faith and Credit shall

be given in each State to the public Acts, Records, and judicial Proceedings of every other state." This "full faith and credit" clause is an attempt to ensure that the records of one state will be respected and accepted by other states. Section 2 of Article IV proclaims that "The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States." In *Toomer v. Witsell*, 334 U.S. 395 (1948), the Supreme Court interpreted this clause as being "designed to insure a citizen of State A who ventures into State B the same privileges which the citizens of State B enjoy." From court decisions over time, these privileges appear to include at a minimum the rights to travel freely, to hold and dispose of property, and to engage in business ventures.

States have cooperated with each other to deal with common problems. One form of cooperation, the interstate compact, requires the approval of Congress. Interstate compacts have been useful in enabling states to work with regional problems in areas such as environmental pollution and transportation and to overcome difficulties in other areas such as law enforcement and child support, where individuals use state boundaries to their advantage. Interstate compacts formally obligate their signatories to honor the commitments they have made.

States also derive significant benefits from less formal cooperation. Officials from neighboring states may exchange ideas on innovative approaches to problems. Over the years, meetings among state officials on regional and national bases have encouraged the exchange of ideas and allowed for the communication of concerns and problems. In many instances, these meetings have been sponsored by associations of state officers that act throughout the year as clearinghouses for information on matters of common concern.²²

Local-Local Relations

Local governments also interact through associations and more informally. Through councils of government (COGs), local leaders in many regions will meet to discuss common concerns and to develop approaches toward mutual problems. This can foster more coordinated action among local governments. However, COGs have no enforcement mechanisms, and the refusal of some local leaders to live up to agreements that have been reached can frustrate efforts to maintain coordinated action in an area. Another area of joint action among local government officials has been lobbying higher levels of government for assistance. Officials at both national and state levels have faced increasing pressure from organized lobbying by local governments.

Competition

Of course, competition can easily replace cooperation as the mode of interaction among states and among local governments. The perennial efforts by governments to attract industry to their jurisdictions often generate intense competition. New industry can offer more jobs for local residents and increase the tax base for government, making life more pleasant for everyone in an area. Unfortunately, this competition often leads governments to provide tax breaks and other inducements that may in the long run be harmful to their financial health and encourage industries to move to lower-cost environments, with the result that one area is harmed by another's temporary good fortune.

The federal system has evolved in response to changing views of the proper role of government. Where forceful government action of some magnitude has been seen as necessary, such as during the Great Depression or during the Johnson administration's efforts to alleviate poverty, national power has gained. Until the Nixon and Reagan presidencies, the growth of national power had been the dominant trend in twentieth-century federal relations. Today, there is a definite shift toward placing more responsibilities on state governments.

Several strong forces have helped to shape the contours of federalism. Especially influential throughout history has been the attitude of the Supreme Court toward the powers of the national government and the states. The use of grants-in-aid has enabled the national government to use its tremendous financial resources to influence state and local governments. And the considerable increase of informal and formal cooperation among national and state and local government officials has provided reciprocal benefits to the parties involved. Finally, the political parties, with their power bases at the state and local levels, remain important checks on national power.

The shifts of power in the dialogue between the national government and the states and localities have been accompanied by assumptions about democracy and pluralism and charges of elitism. Those who favor the return of greater power to the states argue that these governments are closer to the people and thus more responsive to their needs. Others, however, have seen the extension of national power, especially through the use of categorical grants-in-aid, as a means of ensuring that disadvantaged segments of the population at the local level are protected. Through the use of categorical grants-in-aid, the Johnson administration aimed directly at expanding group power and the boundaries of pluralism. This dramatic and obvious attempt to utilize national power and resources to manipulate the political system, in turn, provided am-

munition for those who maintain that American public policy is determined by the powerful few.

Recommended Reading

In addition to the following books, *Intergovernmental Perspective*, published quarterly by the Advisory Commission on Intergovernmental Affairs in Washington, D.C., contains valuable current information on intergovernmental relations.

- Thomas J. Anton: *American Federalism and Public Policy*, Random House, New York, 1989.
- Timothy J. Conlan: *New Federalism*, Brookings Institution, Washington, D.C., 1988.
- Robert Jay Dilger, ed.: *American Intergovernmental Relations Today*, Prentice-Hall, Englewood Cliffs, N.J., 1986.
- Thomas R. Dye: *American Federalism*, Lexington Books, Lexington, Mass., 1990.
- Morton Grodzins: *The American System*, Transaction, New Brunswick, N.J., 1983.
- Arnold M. Howitt: *Managing Federalism*, Congressional Quarterly Press, Washington, D.C., 1984.
- Laurence J. O'Toole, Jr., ed.: *American Intergovernmental Relations*, Congressional Quarterly Press, Washington, D.C., 1985.
- William H. Riker: *Federalism*, Little, Brown, Boston, 1964.
- Deil S. Wright: *Understanding Intergovernmental Relations*, 3d ed., Brooks/Cole, Pacific Grove, Calif., 1988.
- Joseph Francis Zimmerman: *Federal Preemption*, Iowa State University Press, Ames, Iowa, 1991.

12. Arend Lijphart, *Democracy in Plural Societies: A Comparative Exploration*, Yale University Press, New Haven, 1977; G. Bingham Powell, *Contemporary Democracies*, Harvard University Press, Cambridge, Mass., 1982.
13. Thomas R. Dye, *Who's Running America? The Conservative Years*, Prentice-Hall, Englewood Cliffs, N.J., 1986.
14. E. E. Schattschneider, *The Semisovereign People*, The Dryden Press, Hinsdale, Ill., 1975.
15. Allen W. Imershein, Philip C. Rond, and Mary P. Mathis, "Restructuring Patterns of Elite Dominance and the Formation of State Policy in Health Care," *American Journal of Sociology*, 97:4, January 1992.
16. Gabriel Kolko, *The Triumph of Conservatism*, New York: Free Press, 1963.
17. Robert Tucker, ed., *The Marx Engels Reader*, Norton, New York, 1978.
18. C. Wright Mills, *The Power Elite*, Oxford University Press, New York, 1956.
19. See, for example, Herbert McCloskey and Alida Brill, *Dimensions of Tolerance: What Americans Think About Civil Liberties*, Russell Sage, New York, 1983.
20. Robert A. Dahl, *Pluralist Democracy in the United States*, Rand McNally, Chicago, 1967.
21. Robert A. Dahl, *A Preface To Democratic Theory*, University of Chicago Press, Chicago, 1956.
22. Theodore Lowi, *The End of Liberalism*, Norton, New York, 1979.
23. Mancur Olson, *The Rise and Decline of Nations: Economic Growth, Stagflation, and Social Rigidities*, Yale University Press, New Haven, 1983.

Chapter 2

1. Although it may be too simplistic to claim that the United States is a consistently liberal egalitarian society, one can make the case that there are also illiberal, inequalitarian strands in American ideology. See Rogers M. Smith, "Beyond Tocqueville, Myrdal, and Hartz: The Multiple Traditions in America," *American Political Science Review*, 87:549–566, 1993.
2. Bernard Bailyn, *The Origins of American Politics*, Vintage Books, New York, 1968.
3. Donald S. Lutz, "The Relative Influence of European Writers on Late Eighteenth-Century American Political Thought," *American Political Science Review*, 78:189–197, 1984.
4. Jackson Turner Main, *The Social Structure of Revolutionary America*, Princeton University Press, Princeton, N.J., 1965.
5. *Ibid.*, p. 287.
6. James Wilson quoted in Alpheus T. Mason and Richard H. Leach, *In Quest of Freedom*, Prentice-Hall, Englewood Cliffs, N.J., 1959, p. 56.

7. For instance, compare Carl Becker, *The Declaration of Independence*, Vintage Press, New York, 1942; Garry Wills, *Inventing America*, Vintage Books, New York, 1978.
8. Quoted in Calvin Jillson and Rick K. Wilson, "The Continental Congress and the Origins of the U.S. House of Representatives," paper presented at the American Political Science Association meeting, Chicago, 1987, p. 24.
9. Rick K. Wilson and Calvin Jillson, "Leadership Patterns in the Continental and Confederation Congresses: 1774–1789," paper presented at the American Political Science Association meeting, Washington, D.C., 1988.
10. Jackson Turner Main, *The Sovereign States*, New Viewpoints, New York, 1973.
11. Calvin C. Jillson and Cecil L. Eubanks, "The Political Structure of Constitution Making," *American Journal of Political Science*, 28:444, 1984.
12. For basic information on the Convention, see Max Farrand, *The Framing of the Constitution of the United States*, Macmillan, New York, 1935.
13. Jillson and Eubanks, *op. cit.*, 447.
14. Charles Beard, *An Economic Theory of the Constitution of the United States*, Macmillan, New York, 1935 ed.
15. Forrest McDonald, *We the People*, University of Chicago Press, Chicago, 1958.
16. Robert Brown, *Charles Beard and the Constitution*, Princeton University Press, Princeton, N.J., 1956.
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18. John Roche, "The Founding Fathers: A Reform Caucus in Action," *American Political Science Review*, 4:799–816, 1961.
19. Jackson Turner Main, *The Antifederalists*, University of North Carolina Press, Chapel Hill, 1961.
20. *Ibid.*; Roche, *op. cit.*
21. Luther Martin, "Letters on the Federal Convention of 1787," in Jonathan Elliott, ed., *Debates on the Adoption of the Federal Constitution*, vol. 1, Burt Franklin, New York, reprint of 1888 edition, pp. 360–361.
22. Cecilia Kenyon, "Men of Little Faith," in John Roche, ed., *Origins of American Political Thought*, Harper & Row, New York, 1967.

Chapter 3

1. Edward C. Banfield and James Q. Wilson, *City Politics*, Vintage Books, New York, 1963, pp. 64–65.
2. 9 Wheaton 1. (See note in Chapter 11.)
3. 4 Wheaton 316.
4. See *Hammer v. Dagenhart*, 247 U.S. 251 (1918), and *Bailey v. Drexel Furniture Co.*, 259 U.S. 20 (1922).

5. William B. Lockhart, *et al.*, *The American Constitution*, 6th ed., West, St. Paul, Minn., 1986, p. 264.
6. See *National League of Cities v. Usery*, 426 U.S. 833 (1976), overruled by *Garcia v. San Antonio Metropolitan Transit Authority*, 469 U.S. 528 (1985).
7. 120 L. Ed. 2d 120.
8. Morton Grodzins, *The American System*, Rand McNally, Chicago, 1966, pp. 42–43.
9. 262 U.S. 447 (1923).
10. 392 U.S. 83.
11. See Robert Jay Digler, ed., *American Intergovernmental Relations Today*, Prentice-Hall, Englewood Cliffs, N.J., 1986, p. 18.
12. Kenneth T. Palmer, “The Evolution of Grant Policies,” in Lawrence C. Brown, James W. Fossett, and Kenneth T. Palmer, eds., *The Changing Politics of Federal Grants*, Brookings Institution, Washington, D.C., 1984, p. 6.
13. An evaluation of the Great Society efforts from an elitist perspective that recognizes the Johnson administration’s efforts to mobilize the poor is provided by Frances Fox Piven and Richard A. Cloward, *Regulating the Poor*, Vintage Books, New York, 1971, pp. 222–281.
14. Grodzins, *op. cit.*, pp. 8–9.
15. Deil S. Wright, *Understanding Intergovernmental Relations*, 3d ed., Brooks/Cole, Pacific Grove, Calif., 1988, p. 83.
16. Grace A. Franklin and Randall B. Ripley, *CETA: Politics and Policy, 1973–1982*, University of Tennessee, Knoxville, 1984, pp. 202–203.
17. See Arnold M. Howitt, *Managing Federalism*, C Q Press, Washington, D.C., 1984, pp. 39–70.
18. Quoted in William Stevens, “Governors Are Emerging as a New Political Elite,” *New York Times*, March 22, 1988, p. A16.
19. See Howitt, *op. cit.*, pp. 303–321.
20. See Brenda Avoletta and Philip M. Dearborn, “Federal Grants-in-Aid Soar in the 1990s, But Not for Locals or General Government Purposes,” *Intergovernmental Perspective*, Summer, 19:32–33, 1993.
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Chapter 4

1. For an argument that liberalism is not quite so dominant in its hold on the American people and that illiberal behavior is quite predictable, see Rogers M. Smith, “Be-

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2. Donald J. Devine, *The Political Culture of the United States*, Little, Brown, Boston, 1972, p. 284.
3. Herbert McCloskey, “Consensus and Ideology in American Politics,” *American Political Science Review*, 58:361–382, 1964; James W. Prothro and Charles W. Grigg, “Fundamental Principles of Democracy,” *Journal of Politics*, 22:276–294, 1960.
4. John L. Sullivan, James Pierson, and George E. Marcus, *Political Tolerance and American Democracy*, University of Chicago Press, Chicago, 1982.
5. James L. Gibson, “Political Intolerance and Political Repression during the McCarthy Red Scare,” *American Political Science Review*, 82:511–529, 1988.
6. See Smith, *op. cit.*
7. Benjamin I. Page and Robert Y. Shapiro, *The Rational Public*, University of Chicago Press, Chicago, 1992; Richard G. Niemi, John Mueller, and Tom W. Smith, *Trends in Public Opinion*, Greenwood Press, New York, 1989. For a rather different conclusion, see William G. Mayer, *The Changing American Mind*, University of Michigan Press, Ann Arbor, 1992.
8. James A. Stimson, *Public Opinion in America*, Westview, Boulder, Colo., 1991, p. 118. And see Mayer, *op. cit.*
9. James A. Davis, “Changeable Weather in a Cooling Climate Atop the Liberal Plateau,” *Public Opinion Quarterly*, 56:261–306, 1992.
10. Robert H. Durr, “What Moves Policy Sentiment?” *American Political Science Review*, 87:158–170, 1993.
11. Arthur H. Miller, “Political Issues and Trust in Government,” *American Political Science Review*, 66:951–988, 1974.
12. Arthur H. Miller, “Is Confidence Rebounding?,” *Public Opinion*, 6:20:1983. Updating this analysis further is Richard G. Niemi, John Mueller, and Tom W. Smith, *Trends in Public Opinion*, Greenwood Press, New York, 1989, chap. 4.
13. William H. Flanagan and Nancy H. Zingale, *Political Behavior of the American Electorate*, Allyn and Bacon, Boston, 1987.
14. Niemi, Mueller, and Smith, *op. cit.*, p. 315.
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16. Paul R. Abramson, Brian D. Silver, and Barbara A. Anderson, “The Effects of Question Order in Attitude Surveys: The Case of the SRC/CPS Citizen Duty Items,” *American Journal of Political Science*, 31:900–908, 1987; Warren E. Miller, Arthur H. Miller, and Edward J. Schneider, *American National Election Studies Data Sourcebook, 1952–1978*, Harvard University Press, Cambridge, Mass., 1980.
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