Chapter 3
Federalism

WHO GOVERNS?
1. Where is sovereignty located in the American political system?
2. How is power divided between the national government and the states under the constitution?

TO WHAT ENDS?
1. What competing values are at stake in federalism?
2. Who should decide which matters ought to be governed mainly or solely by national laws?
Why Federalism Matters

- Federalism is a system in which the national government shares power with state/local governments.
- State governments have the authority to make final decisions over many governmental actions.
- The most persistent source of political conflict is between national and state governments.

A man holds his card showing he is covered for a pre-existing medical condition. This program was part of the Affordable Care Act of 2010 (“Obamacare”).

Figure 3.1 Lines of Power in the Federal System of Government

UNITARY SYSTEM

Central government

States

Citizens

Power centralized. State or regional governments derive authority from central government. Examples: United Kingdom, France.
The Founding

- A Bold New Plan: A “federal republic” for which there was no precedent
- Elastic Language

Congress shall have the power to “make all laws which shall be necessary and proper for carrying into execution the foregoing powers.” -from Article I
The Debate on the Meaning of Federalism

- The Supreme Court Speaks
- Nullification
- Dual Federalism
- State Sovereignty

How Things Work

The States and the Constitution

The preamble made clear that the relations between the states and the federal government and how the states were to relate to one another. The following points were made in the original Constitution—before the Bill of Rights was added:

Restrictions on Powers of the States

States may not infringe on relations with foreign nations, coin money, issue paper currency, grant titles of nobility, declare war, make treaties, or engage in any debt beyond their means.

[Art.I, sec. 8]

Safer

States may not impair the obligation of contracts or make laws that either infringe on any income, tax laws, or regulations.

[Art.I, sec. 10]

Safer

States may not pass any bill of attainder or ex post facto law, or suspend the right of habeas corpus.

[Art.I, sec. 9]

Safer

States may not impair the obligation of contracts or make laws that either infringe on any income, tax laws, or regulations.

[Art.I, sec. 10]

Safer

Governed by the Federal Government

The national government guarantees to every state a “republican form of government” and a section against foreign invasion and invasion of protection against domestic insurrection.

[Art.II, sec. 4]

Safer

As nothing states will not be dismembered and taxed as foreign duties or regulated as part of another state without their consent.

[Art.IV, sec. 3]

Safer

Congress may admit new states into the Union.

[Art.IV, sec. 3]
Landmark Cases

Federal-State Relations
- McCulloch v. Maryland (1819): The Constitution’s “necessary and proper” clause permits Congress to take actions (in this case, to create a national bank) when it is essential to a power that Congress has (in this case, managing the currency).
- Gibbons v. Ogden (1824): The Constitution’s commerce clause grants the national government exclusive power to regulate interstate commerce.
- Wabash, St. Louis and Pacific Railroad v. Illinois (1886): The states may not regulate interstate commerce.
- United States v. Lopez (1995): The national government’s power under the commerce clause does not permit it to regulate matters not directly related to interstate commerce (in this case, banning firearms in a school zone).

Federal-State Relations

- Federalism: Good or Bad?
- Increased Political Activity
- What the States can do
  - Initiative
  - Referendum
  - Recall

Some of the nation’s greatest universities, such as Penn State, began as land-grant colleges.
Federal Grants to State and Local Governments (2009)

Table 3.1 Federal Grants to State and Local Governments (2009)

The federal government spent $461 billion on grants to states in 2009.

Among the biggest items:

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
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<tbody>
<tr>
<td>Medicaid</td>
<td>$268.3 billion</td>
</tr>
<tr>
<td>Income security</td>
<td>193.2 billion</td>
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<tr>
<td>Education and training</td>
<td>74 billion</td>
</tr>
<tr>
<td>Transportation</td>
<td>55.6 billion</td>
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<tr>
<td>Community development</td>
<td>17.4 billion</td>
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</tbody>
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An airline passenger stands inside a device that searches electronically for any contraband.

Figure 3.2 The Changing Purpose of Federal Grants to State and Local Governments
Federal Aid and Federal Control

- Mandates
- Conditions of Aid

A Devolution Revolution?

- Devolution shifts many federal functions to the states.
- Most Americans favor devolution, but not if that means cuts in government programs that benefit most citizens.
- What have been the consequences of devolution?
A Devolution Revolution?

- By 2011, many states have lost budget surpluses and face debts.
- This leads states to consider which responsibilities are theirs and which belong to the federal government.
- How will states address their long-term debts?

Congress and Federalism

WHY IS THERE SO MUCH POLITICAL AND POLICY DIVERSITY IN THE UNITED STATES?

- State and local governments have retained certain constitutional protections.
- Members of Congress think of themselves as representatives of localities to Washington, not as representatives of Washington to the localities.

WHAT WOULD YOU DO?

MEMORANDUM
To: Secretary of Education Julie Dew
From: White House special assistant Jack Patrick
Subject: National curriculum for elementary and secondary schools

As promised in her campaign platform, the president would like to expand upon the No Child Left Behind Act to develop a national curriculum for all elementary and secondary-school children, beginning with high school, to better prepare students for the twenty-first century work force. The major arguments for and against this proposal follow; will you present the initiative and address states’ concerns at the National Governors Association next week?
WHAT WOULD YOU DO?

Arguments for:
1. American jobs in the twenty-first century will require advanced skills in literacy, mathematics and information technology that all schools must teach.
2. Variations in state curriculum standards leave students ill-prepared for college which increasingly is a necessary credential for long-term employment.
3. If the national government does not invest in creating a uniform school curriculum now, then increased funding will be needed for remedial instruction later.

WHAT WOULD YOU DO?

Arguments against:
1. States are better able to determine educational standards that will prepare their diverse populations for the work force than the federal government.
2. Imposing a national curriculum will stifle state and local creativity in education and will be so basic that it will make little difference in college preparation.
3. The national government has a history of imposing educational mandates on states with insufficient funding and governors are skeptical of receiving sufficient funding to successfully implement a national curriculum for students with varying needs.

WHAT WOULD YOU DO?

Your decision:
Support bill?
Oppose bill?