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FEDERALISM

CHAPTER OUTLINE
It only took 47-year-old Clarence William Busch two days out on bail from his hit-and-run drunken-driving charge before he killed a little girl. Thirteen-year-old Cari Lightner was in the middle of a Saturday afternoon stroll when Busch swallowed her young life. His car careened straight across a bicycle path, struck the slim teen from behind, and left in its wake a mangled body that died within the hour.¹

That Busch’s personal struggles finally resulted in a death was not particularly surprising. When he sat behind the wheel that fateful day, Busch already had two drunken-driving convictions under his belt, not counting the most recent charge. What is more surprising is that the repercussions from this all-too-common tragedy did not stop with its impact on the lives of the killer and his victim’s family. Cari’s mother, a Sacramento real estate agent, quickly transformed her grief into a political crusade—one that would impact the lives of college students across the nation.

Candy Lightner formed the organization Mothers Against Drunk Driving (MADD) within a week of her daughter’s death and, four years later, commanded a national organization claiming 258 chapters and 300,000 members. Candy’s thirst for “revenge” did not stop with those caught driving intoxicated. Instead, her agenda spread to encompass young adult drinkers of all sorts. Teenagers account for a disproportionate share of drunk-driving accidents, so MADD demanded federal laws to take away the whole age group’s right to drink.²

At first, President Ronald Reagan and other Republicans resisted tampering with the drinking age; modern conservatives generally prefer to let states set their own social regulations. But the political situation grew stickier as many states delayed changing their own laws. By the middle of 1984, only 23 states forbade drinking for those under 21, and 19 states had passed up the opportunity to do so.³ The final blow came when New York’s legislature failed to raise the state’s age limit, despite a strong push by the governor. New York was a mecca for young drinkers from New Jersey and Pennsylvania, who created a “blood zone” on the state borders as they journeyed back home.
Congressional delegations from New York’s two neighboring states placed MADD’s agenda on the front burner. One New Jersey Democrat’s legislative assistant explained, “The day of more rights for kids has passed.” However, the Twenty-first Amendment gives states authority over liquor laws, so Congress could not simply set a national drinking age. Representative James Howard of New Jersey suggested trying economic pressure, the same strategy he used in 1973 to force states to lower their speed limits to 55 miles per hour. He proposed legislation yanking away millions of dollars in federal highway funds from any state whose drinking age remained below 21. *

Public opinion left national politicians little wiggle room; polls strongly supported raising the minimum. The House passed the indirect federal drinking age by voice vote, with very little opposition—prompting the White House to switch positions. Transportation Secretary Elizabeth Dole announced during a MADD rally on the Capitol steps that President Reagan now supported their bill. It then passed the Senate, 81 to 16, opposed primarily by conservatives unhappy with the strong-arm treatment that states would face. 4 Reagan signed the National Minimum Drinking Age Act into law. 

But the battle did not end there. Eight states still refused to cave in until the 1986 deadline arrived, and four actually passed on the “blackmail portion” of federal highway funds for a year by holding out until June 1987. 5 Others changed their laws only in protest. Florida, for example, specified that the age would drop again the minute any federal court struck down the Act. 6 South Dakota, supported by the other holdout states, took a challenge all the way to the U.S. Supreme Court.

South Dakota’s attorneys explained that their state preferred lower drinking ages because, otherwise, teenagers would engage in dangerous “surreptitious drinking.” 7 They charged that Congress was trying to do an end run around the state’s constitutional right to make this choice. But the Court wouldn’t swallow it. Chief Justice Rehnquist wrote for a seven-justice majority in South Dakota v. Dole (1987) that Congress can use federal budgetary power to pressure states—regardless of whether the law Congress wants changed falls under its jurisdiction. He called the potential million-dollar losses “relatively mild
encouragement,” prompting a spokesperson for the National Conference of State Legislatures to scoff, “I don’t think many of them will hold out. They simply need the money.”

No state held out against the letter of the law; the penalties worked. But Louisiana’s state legislature did resist the spirit of the law. It was no accident that Louisiana, a state with drive-up daiquiri shops, would be the last to surrender. The state began as a French colony and later was a Spanish colony. Latin Catholicism still heavily influences her southern region. Alcoholic beverages are more likely to be part of normal family life there.\(^9\) Louisiana also attracts a substantial (and young) tourism trade, hosting numerous music festivals as well as Mardi Gras – a carnival celebration called the “greatest free show on Earth.” Raising the drinking age simply did not conform to Louisiana’s interests or her culture.

So the Louisiana legislature left a major loophole in its 1986 alcoholic beverage regulation. Legislators made it illegal to drink under age 21, but imposed no penalty for selling alcohol to someone 18 or older. This loophole made consistent enforcement impossible for a decade. And when the loophole finally collapsed in 1995, worn down by continued federal pressure, the Louisiana Supreme Court responded by trying to roll the entire age limit back to 18, ruling that a higher limit represented age discrimination!

But one New Orleans columnist, at least, knew that the resistance could not last. James Gill predicted, somewhat tongue-in-cheek, that raw federal power would force a reversal of the decision: “So long as they got the bomb, and we [only] got the Tenth Amendment, the feds are going to win every time.”\(^{10}\) He was right. Louisiana’s court reheard the case in the face of severe threats from the Clinton administration and then backpedaled—with one judge switching his vote and a new judge joining the majority. “Totally political,” grumbled the state’s top liquor lobbyist.\(^{11}\) The drinking age went up again, loopholes gone.

At long last Louisiana conformed to national norms, and young adults were saved from demon liquor in every state, right? Wrong. Not even Louisiana’s 1996 surrender was final. One poll showed that fewer than half of Louisiana men endorsed the higher drinking age and that respondents aged 18 to 20 overwhelmingly opposed it.\(^ {12} \) A strong majority of the legislators in the statehouse, unimpressed by the
federal mandate, voted in favor of a 1999 constitutional amendment to restore the old limit—although they fell 18 votes short of the supermajority needed.\textsuperscript{13}

And Louisiana still has loopholes. For example, both chambers of the legislature explicitly rejected an attempt to curtail teenage access to bars. Despite complaints from law-enforcement officials, young adults are still free to enter entertainment establishments that serve liquor in order to “hear good music.”\textsuperscript{14} And there’s always the question of how aggressively police enforce a law that lacks local sympathy. Two teenage brothers interviewed in 1996 said they had little trouble finding booze in the New Orleans French Quarter. “Once in a while we’ll get hassled trying to buy liquor in a supermarket,” 17-year-old Patrick Grimmace explained. “But never on Bourbon Street.”\textsuperscript{15}

The winding path followed by America’s national drinking age illustrates why the structure of intergovernmental relations—seemingly so technical—has been an intense source of conflict from the nation’s founding. It shows the important value preserved by letting states do their own thing: social regulations that better fit the culture and interests of people in each state and less danger of a national majority bullying regional minorities. It shows how hard states will fight to retain their distinctiveness. At the same time, it shows how a determined national majority can force deviant states to conform to its demands, especially when a few states seem bound to a policy that the rest of the nation considers backward or unwise. States often capitulate to public opinion in a way that is “totally political.”

The story also illustrates why the American political system has tilted over time toward the national government. It shows that federal courts ultimately bear the burden of deciding between competing claims of authority—a responsibility that, more often than not, they exercise to expand the power of the national government of which they are part. It shows another reason the balance has tipped as well: the muscle provided by congressional grants. But the story also shows that, even in their weakened condition,
state and local governments still have influence. As long as the nation relies on them to implement programs, then local officials will enjoy some discretion.

**THE FEDERALISM DEBATE**

Deciding how much to centralize power has been a challenge since the country’s founding. The Federalists favored a strong central government, whereas the Anti-Federalists wanted state governments to retain as much power as possible because they were closer to the voters (see Chapter 2). As a compromise, the framers developed a principle called federalism – the belief that multiple sources of government authority could coexist, each with its own sphere of responsibility. The U.S. Constitution established a federal system, laying out the areas of law in which each level of government enjoyed unchecked (or “sovereign”) authority (see Table 3.1). The result is a system of dual sovereignty with two formal units – the *national government* and the *state governments.*

Few nations follow the principle of federalism. Most have unitary political systems, in which all authority is held by national governments. Such a system may divide the country into local jurisdictions, but these are simply administrative outposts that lack sovereignty. Indeed, as a principle of government, federalism attracts a fair bit of skepticism. The great fighter for Venezuelan independence, Simón Bolívar, once observed, “Among the popular and representative systems of government, I do not approve of the federal system: It is too perfect; and it requires virtues and political talents much superior to our own.”²⁶ Splitting up authority can prevent a nation from responding quickly during a crisis, and may exacerbate problems during times of conflict.

Yet federalism seems ideally suited to a nation characterized by geographical, ethnic, and cultural diversity. It provides a useful way to resolve conflicts that can tear other countries apart, by allowing subdivisions to “do their own thing.” Federalism also promotes economic development, since it gives states the authority and interest to focus on internal needs. As early as the 1830s, the keen French
observer Alexis de Tocqueville noted, “One can hardly imagine how much division of sovereignty contributes to the well-being of each of the states that compose the Union.”

Both elections and court decisions have defined and redefined the nature of American federalism. Leaving aside any indirect influence elections have on the Supreme Court, they also mold what leaders try to accomplish by determining how elected officials envision their responsibilities. For much of early American history, the national government remained weak precisely because elected officials intentionally limited their exercise of power. Centralization increased only when voters selected new leaders who promised to do more.

**Federalism in the Courts**

The Constitution does not indicate who should settle disputes between the national government and the states. Before the Civil War, some opponents of centralized power argued that states could nullify, or invalidate, national laws that infringed on their authority (see the Election Connection, “The Nullification Doctrine”). The doctrine of nullification was seldom invoked, however. Instead, the Supreme Court granted itself the power of deciding how the Constitution divided up sovereignty, in the sweeping 1819 decision *McCulloch v. Maryland* – among the most important the Court has ever made. This assumption of responsibility became accepted over time.

Supreme Court decisions have had a fundamental impact defining American federalism because national courts exercise the power of judicial review—that is, the authority to declare laws null and void on the grounds that they violate the Constitution (see Chapter 11). When the Supreme Court declares a national law unconstitutional, which it does rarely, it also expands the arena in which states are sovereign. When it declares state laws unconstitutional, which it does much more frequently, the result is a stronger national government.

A few constitutional amendments attempted to protect state governments from federal encroachment. The Tenth Amendment, added in part to satisfy revolutionary hero Sam Adams, emphasizes that states
retain all powers not delegated specifically to the national government. The Supreme Court rarely invokes this provision, though. The Eleventh Amendment also protects states. It gives them **sovereign immunity** from suits filed under national law, a provision that conservative members of the Supreme Court began giving teeth in the mid-1990s. For example, a 2001 opinion by Chief Justice William Rehnquist ruled that a woman suffering from breast cancer could not sue the state of Alabama for discrimination under the federal Americans with Disabilities Act.\(^n\) That next year, Justice Clarence Thomas prevented a cruise line from using the Federal Maritime Commission to seek relief against Charleston, South Carolina’s state-owned port. “Dual sovereignty is a defining feature of our constitutional blueprint,” Thomas reminded readers.\(^n\)

Federal judges have found numerous phrases in the Constitution to permit expanded federal power, though. Four are especially important: the **supremacy clause** declaring national law superior to state law, the **commerce clause** giving Congress control over interstate trade, the **spending clause** giving Congress access to a very deep purse, and the **necessary and proper clause**, which gives Congress great flexibility in carrying out its enumerated powers. Combined, these ambiguous phrases laid the groundwork for a significant centralization of power in the national government, to which the Fourteenth Amendment added after the Civil War (see Chapters 13 and 14).

**THE SUPREMACY CLAUSE** The Constitution states that national laws “shall be the supreme Law of the Land . . . Laws of any State to the Contrary notwithstanding.” This statement comes close to saying (yet does not quite say) that only the national government is truly sovereign. It was used early in the nation’s history, in *McCulloch v. Maryland* (1819). The case revolved around the Bank of the United States, an entity that commercial interests thought vital to economic prosperity but that many farmers and debtors resented. Responding to popular opinion, the state of Maryland levied a tax on the bank. James W. McCulloch, an officer of the bank’s Maryland branch, refused to pay and took his case to the Supreme
Court. The Court ruled in favor of McCulloch. Maryland could not tax a federal bank, Chief Justice John Marshall, an ardent Federalist, explained. The “power to tax involves the power to destroy.” If a state government could tax a federal agency, then states could undermine national sovereignty—which the supremacy clause would not allow.

THE NECESSARY AND PROPER CLAUSE The Constitution gives Congress authority “to make all laws which shall be necessary and proper for carrying into Execution the . . . Powers vested by this Constitution in the government of the United States.” The words necessary and proper were first analyzed by Justice Marshall in the same decision that challenged the doctrine of nullification and that fleshed out the supremacy clause, McCulloch v. Maryland.

Maryland argued that Congress had no authority to establish a national bank, because a bank was not necessary for Congress to carry out its delegated power to coin money. But Justice Marshall rejected such an interpretation. The language, he explained, does not mean absolutely necessary; it only means convenient. “Let the end be legitimate,” he said. “Let it be within the scope of the Constitution, and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, but consistent with the letter and spirit of the Constitution, are constitutional.”

Since the McCulloch v. Maryland decision, courts have generally found that almost any means selected by Congress is “necessary and proper.” As a result, the necessary and proper clause has come to be known as the elastic clause. Over the centuries it has stretched to fit almost any circumstance.

THE COMMERCE CLAUSE The Constitution gives Congress power “to regulate commerce . . . among the several states.” The meaning of these words has been the subject of heated dispute. In the nineteenth century, the courts understood interstate (between-state) commerce to exclude exchanges that did not overtly cross state lines. Thus, for example, the Supreme Court’s 1895 ruling in United States v. E. C. Knight Co. said that Congress could not break up a monopoly that had a nationwide impact on the price of sugar because the monopoly refined all its sugar within the state of Pennsylvania.
The Great Depression eventually led to a change in how courts understood the commerce clause, because it ushered in a long period of Democratic dominance (see Chapter 8). In particular, voters sent Franklin Delano Roosevelt (FDR) to the White House because he promised to fight the Depression aggressively. FDR initiated what he called the **New Deal**—a wide array of proposals expanding the federal government’s power to stimulate economic recovery. The Supreme Court resisted empowering the national government at first, but after Roosevelt’s landslide reelection in 1936, the Court began reinterpreting the commerce clause to suit his proposals (see Chapter 12).

At first, doctrine changed slowly. For example, the Supreme Court permitted a New Deal law protecting union organizers, the Wagner Act, only because “industries organize themselves on a national scale.” But FDR’s appointees increasingly expanded the definition of interstate commerce. In 1941, a farmer sowed 23 acres of winter wheat on his own land to feed his own family and his own livestock. This act violated crop quotas imposed under New Deal legislation, but the farmer challenged the limits as unconstitutional. What took place entirely on his farm, he argued, bore no relation to commerce “among the several states.” Yet the Supreme Court ruled against the farmer in *Wickard v. Filburn* (1942), reasoning that, if he did not “resort to the market,” he was depressing worldwide wheat prices. In other words, the government could prevent a farmer from growing food to take care of his own needs! With such an expansive definition of interstate commerce, almost nothing falls outside the reach of Congress.

This broad interpretation of the commerce clause remained unquestioned until 1992, when Alphonso Lopez, a teenager with neither a criminal record nor a history of making trouble, foolishly carried a .38-caliber handgun to his San Antonio high school. Needless to say, this was a violation of Texas state law. Rather than leave the matter to the local justice system, though, a U.S. district attorney decided to prosecute Lopez using 1990’s Gun-Free School Zone Act. This law made bringing a dangerous weapon near school grounds a federal offense. Lopez received a sentence of six months in the penitentiary, but he appealed the case, arguing that Congress had exceeded its enumerated powers by trying to control the

The *Lopez* case also represented a victory for states trying to slow expansion of the federal government. Chief Justice Rehnquist dismissed arguments that Congress could regulate the “business” of public schools because they influence interstate commerce. Since then, the Supreme Court has continued to place limits on Congress’s ability to intervene in state and local affairs. In 1997, the Court expanded the thrust of the *Lopez* decision by declaring unconstitutional a federal law that required state and local law enforcement officials to check the backgrounds of those buying handguns. The commerce clause does not allow the federal government to issue orders to state officials.

**THE SPENDING CLAUSE** The Constitution gives Congress authority to collect revenues for the “general welfare.” The New Deal Supreme Court considered the meaning of this clause when it ruled on the constitutionality of the social security program for senior citizens enacted in 1935. A taxpayer had challenged the program as oriented toward the specific welfare of the elderly and not the general welfare. But the Supreme Court, in tune with FDR’s enlarged conception of federal power, said it was up to Congress to decide whether any particular program was for the general welfare “unless the choice is clearly wrong.” So far, the Court has never found Congress “clearly wrong.”

Not only has the Supreme Court refused to restrict the purposes for which Congress can spend money, it has also granted Congress the right to attach almost any rule to the money it distributes. *South Dakota v. Dole* (1987), discussed in the introduction to this chapter, shows the thin connection permissible between the “strings attached” to federal money and the purpose for which the money would be spent. South Dakota argued that a state’s drinking age bore no relation to how it used highway funds, but the Supreme Court decided that both involve “highway safety.” Only one justice expressed general concern with Congress buying “compliance with the few things that otherwise exceed its grasp.”
Authority to tax and spend has remained one of the broadest congressional powers because the federal government’s scope expands every time it raises taxes. The more revenue extracted from state economies by federal taxation, the more that cash-strapped state governments need to get the funds back through federal grants—and therefore the more willing they must become to meet congressional stipulations. Some scholars consider the national government’s spending authority “the greatest threat to state autonomy.” For this reason, it is important to understand how the national government distributes funds to state and local government – which is the subject of the next section.

**Federalism and Government Grants**

The classic understanding of federalism envisions levels of government as though they are distinct and separate, each sticking to its own duties. As governmental interactions became more complicated after World War II, though, this conception seemed inadequate – different levels of government usually worked together in the same policy areas to solve problems. For example, law enforcement requires cooperation among agencies, such as the Federal Bureau of Investigation, state highway traffic control, the county sheriff’s office, and local police departments.

Political scientist Morton Grodzins helped focus attention on the gap between how people viewed federalism and how it actually operated by using the contrast between two sorts of dessert. He compared the classic model of federalism to a traditional layer cake: stacked levels, each one separate from and independent of the other, perhaps with a strip of icing buffering one level from the next. Grodzins preferred an alternate, cooperative, view of federalism in which agencies from different levels of government worked together, combining and intertwining their functions. As an image for this view of intergovernmental relations, Grodzins selected a dessert popular at the time he was writing (the 1950s): the marble cake, in which light and dark batters were swirled before baking to give the cake a mottled look like cut marble. This image has lingered among scholars who study federalism.
Grodzins left no doubt that he preferred **cooperative (marble-cake) federalism** because it would accommodate a growth in government power. The national government should raise taxes, he suggested, and distribute the resulting revenue to state governments as an inducement for them to become more active.⁶ For this reason, cooperative federalism is particularly well suited to Democratic party philosophy (see Chapter 8). Many Democrats see federal grants as a way to address social needs that state and local governments otherwise would ignore. In particular, they favor **categorical grants** – grants with fairly specific regulations about how the money must be spent. Categorical grants often have social welfare purposes, such as job training, elimination of hunger through food stamps, and educational programs for the disabled.

The Democratic party’s electoral successes in the early 1960s provided an opportunity to experiment with the sort of cooperation Grodzins proposed. Congress greatly enlarged the number, size, and complexity of programs funded in part by the federal government but administered more locally. Only $85.8 million was spent on grants to local governments in 1930, but funds grew to $43.6 billion by 1962.⁷ By 1982, they had more than tripled to $147.5 billion. * The **War on Poverty**, a wide-ranging set of programs designed to enhance economic opportunities for low-income citizens, became the most famous and controversial of all categorical grant programs. Enacted in 1964, at the behest of President Lyndon Baines Johnson (LBJ), this series of poverty initiatives created such popular programs as Head Start, which helps impoverished preschoolers prepare for grade school, and the Job Corps, a residential education and training program.

Other programs in the War on Poverty attracted much less praise. Some critics targeted the liberal social values expressed in LBJ’s welfare policies. Riots swept through American cities in 1964 and 1965, shortly after the War on Poverty began; some conservatives blamed the initiative for unsettling urban ghettos. Other critics of the War on Poverty target how it was implemented – that is, how it was
administered on the local level. Critics note three specific reasons why such intergovernmental grants failed to meet expectations:\(^{30}\)

1. **National and local politicians often block one another, making it impossible to get much done.**

   Local officials often feuded with the poverty warriors. The officials accused government workers of being insensitive to their community's needs; the activists accused officials of trying to undermine the beneficial intent of the programs. For example, when Lyndon Johnson tried to build “new towns” for the poor on vacant federal land, local officials balked because they thought the program would undermine property values.\(^ {31}\) Virtually no new towns were built.

2. **When many participants are involved, delays and confusion are almost inevitable.** It took more than four years to get a job creation program in Oakland under way. Political scientists Jeffrey Pressman and Aaron Wildavsky pointed out that the long delay was caused at least in part by the sheer number of agencies involved in the decision. The program required 70 separate clearances. Even if each took an average of only three weeks (not an unreasonable length of time), the total delay would be over four years.\(^ {32}\)

3. **Federal policy makers often raise unrealistic expectations** by using exaggerated rhetoric, thereby guaranteeing disappointment. It was a mistake to equate moderately funded programs with a war.

   Although categorical grants no longer enjoy the widespread popularity they once had, Congress shows little stomach for reducing their size or number (see Figure ?.?). The precise rules accompanying categorical grants give members of Congress more control over what the money buys, which means that constituents needing funds need to go to the legislator for help rather than to a local official. Categorical grants also make it easier for legislators to claim credit for whatever the grant accomplishes. As Senator Barry Goldwater said, “I don’t care what the piece of equipment is—or how bad it is—if it’s done in his state, the senator has to stand up and scream for it.”\(^ {33}\) Constituents rarely criticize their elected officials for bringing money home from Washington, D.C.
**BLOCK GRANTS** Conservatives typically dislike categorical grants because of the influence they give the national government at the expense of the states. But they may not call for shrinking the federal budget. Sometimes they simply endorse giving states more flexibility in spending federal money. To simplify federal policy, therefore, Congress occasionally replaces categorical grants with **block grants**, intergovernmental grants with a broad set of objectives, a minimum of restrictions, and maximum discretion for local officials.

The move toward block grants occurred in three distinct waves, each influenced by the political circumstances prevailing at the time. The first wave of block grants began under President Nixon. They did not replace categorical grants so much as supplement them—a necessary compromise for Nixon to get block grants past Democrats in Congress. As a consequence, total grant spending grew throughout the decade, eventually costing more than $155 billion. One block grant program, **general revenue sharing**, took the idea of removing categorical rules to its logical extreme: it gave state and local governments a share of federal tax revenues to be used for any purpose whatsoever.

The second wave of block grants came at the beginning of Ronald Reagan’s administration, which enjoyed a Republican majority in the Senate. Reagan succeeded in converting a broad range of categorical grants in education, social services, health services, and community development to block grants. During this second wave, the new block grants not only had fewer restrictions than those they replaced, their funding levels also fell. The amount spent on block grants dropped from $93.5 billion in 1977 to $64.1 billion in 1998. Most of this reduction occurred in the early 1980s – general revenue sharing was eliminated in 1985, and a major grant program for cities across the country, the community development block grant, was cut from $7.7 billion in 1980 to $4.6 billion in 1998.

The third wave of block grants took place after the congressional election of 1994, when Republicans captured control of Congress. Earlier initiatives had not touched large social programs, such as Medicaid and Aid to Families with Dependent Children (AFDC, or “welfare”). But in 1996 Congress transformed
the AFDC program into a block grant that gave states almost complete discretion over the way monies could be used (see Chapter 15). Congress also tried to transform the Medicaid program into a block grant, but this effort was forestalled by a presidential veto.

**RECONCILING GRANTS WITH FEDERALISM** Federal grants carry such an awesome potential for increasing the power of national government that some critics would like to do away with just about all of them. Supporters, meanwhile, would like to see a wide variety of grants, as well as increased spending on the ones that already exist. This debate polarizes the two sides, but it is possible that both of them are partially correct.

One common argument for federal grants is that they equalize wealth across the country. The numbers indicate, however, that the federal budget does not operate like Robin Hood, taking from the rich states and giving to the poor. In fact, the opposite is true: rich states receive more funding per capita than anyone else does (see Figure 3.3)! Critics are probably right to suggest that Congress distributes grants based on political calculations rather than on simple policy needs.

Centralizing welfare policies may help the poor in a different way, though – by overcoming state government’s natural tendency to squeeze social programs. When states are not subject to federal regulation, they try to shift the burden of serving the needy to other states. More importantly, they want to keep benefits low enough that they will not attract “other people’s poor.” In Minnesota, a state with generous poverty programs, the proportion of new out-of-state welfare recipients increased from 19 to 28 percent between 1994 and 1995, a time when other states were placing limits on benefits. “We’re really concerned,” a county official said. Fear of migration from other places creates a vicious cycle of cuts that President Clinton has called a “race to the bottom,” providing some credibility to the argument that only federal grants will compel states to provide generous social-welfare benefits.

It may be possible to reconcile the two sides in this polarized debate by keeping in mind that not all federal grants are created equal. States and localities customarily provide traditional services, such as
transportation, sanitation, and education, regardless of whether they face federal pressure to do so. States are also likely to know their needs in these policy areas better than the federal government would.

Congress, meanwhile, tends to spend money poorly in these areas – using political considerations to drive the policy choices. It may be appropriate to keep the federal role to a minimum. But in other areas, such as Medicaid and food stamps, it may be important to establish federal standards so that states do not “race to the bottom.”

**The Federalism Debate Today**

The debate over federalism continues. It divides the two major political parties. Republicans tend to prefer a decentralized government because state and local officials are closer to the people, more in touch with their needs, and less likely to waste taxpayer dollars. Conversely, Democrats tend to think that many serious social problems require a national solution; they do not trust local majorities to be fair.

In the early 1990s, debate focused on the issue of *unfunded mandates*—which occur when the national government imposes regulations on state and local governments without covering the costs. This strategy is tempting to members of Congress because it allows them to “solve” social problems without paying for the solutions. By 1993, countless mandates had reached the statute books, including prison reforms, environmental laws, and social-welfare benefits. A number of state and local officials held “National Unfunded Mandates Day” on October 27, 1993, to protest such policies—complaining that cities were suffering “spending without representation.”

Despite the long-standing popularity of unfunded mandates on Capitol Hill, the 1994 election at least temporarily slowed their growth. Republicans campaigned in favor of *devolution*, the return of governmental responsibilities to state and local governments. After taking over Congress, they passed a statute banning any new law that is not adequately funded. However, if Congress wishes, it can—and sometimes does—ignore the law and pass new mandates anyway.
The Supreme Court has also worked to limit the elasticity of the necessary and proper clause through rulings that have attracted some criticism. For example, in New York v. U.S. (1992), the Supreme Court declared that Congress cannot give direct orders to states. This case dealt with the disposal of radioactive waste, which has become a particularly annoying political problem. Millions of cubic feet of such waste must be buried someplace where it cannot be disturbed for thousands of years. The dilemma has become an elected official’s nightmare: Something needs to be done, and there is no way of doing it without making some people angry—really angry.

Easily alarmed at the very word radioactive, citizens organize protests and demonstrations whenever a town is mentioned as a potential radioactive dump. Everyone knows the stuff has to go somewhere, but everyone also says, “Not In My Back Yard.” This response is generally known as the NIMBY problem. After stewing fitfully over the NIMBY problem for several years, Congress discovered a politically painless solution: It required each state either to find an adequate burial site for its waste or to become legally responsible for any damages the waste might cause. Rather than make tough decisions itself, Congress decided to place an unfunded mandate on governors and state legislatures.

As a result, the debate over domestic radioactive waste shifted to the states. In no state was the issue more hotly debated than in New York. Often, when state officials identified a potential dump, they were run off the site and burned in effigy. Pressured by the federal law, New York officials decided to ignore the opposition and dump the waste in Cortland and Allegany counties. But the elected boards for the two counties, to keep faith with county voters, filed suit claiming that the federal law was unconstitutional. Supreme Court Justice Sandra Day O’Connor, writing for the majority, said Congress could not force states or local governments to bury their nuclear waste; such direct orders violate state sovereignty. Old ideas of dual sovereignty clearly have been revived.

STATE AND LOCAL GOVERNMENT
American government may have become more centralized, but that does not mean the states and localities are withering away. Quite the contrary. The national government has increased its authority, but lower levels of government usually bear responsibility for implementing policy. These lower levels are the ones often actually spending the funds collected through federal taxation and distributed according to competitive grants or according to specific formulas. State and local governments are the ones actually hiring new bureaucrats to implement federal mandates (see Chapter 11). For this reason, someone wishing to understand America’s new democracy needs to consider how these independent administrative units actually operate.

**LOCAL GOVERNMENT**

Local governments now play a more prominent role in the federal system than they have for decades. Even before the most recent devolution, nearly half of all domestic government expenditures operated at the state and local level. This pattern is in keeping with long-standing American traditions (see Figure 3.4). Local governments maintain roads; take care of the parks; provide police, fire, and sanitation services; run the schools; and perform many other functions that affect the everyday lives of citizens.

**THE NUMBER AND TYPES** Local governments constitute a growing presence, at least in sheer numbers. There were over 73,000 in 1997, up from about 46,000 in 1942. The basic unit in most states is the county, although not all counties are alike. In some states they manage school systems, welfare programs, local roads, sanitation systems, sheriff’s offices, and an array of other governmental activities. In other states they hardly have any duties. Many counties are divided into townships—there are nearly 17,000 of them nationwide—which take care of local road maintenance and other small-scale activities. As the population has become concentrated in urban areas, the total number of municipalities—cities, suburbs, and towns—has increased to nearly 20,000. In most states, these municipal governments have assumed many of the responsibilities once performed by counties.
States, counties, and municipalities have also created an extraordinary array of special districts—nearly 30,000 in all. Each special district has responsibility for only one or a few specific governmental functions. Such governments are unique in that they overlap the boundaries of other local governments, sometimes spanning many different municipal jurisdictions. Special districts account for most of the increase in the number of local governments over the last 50 years. Some special districts run schools, others manage parks, and still others administer transportation systems or garbage collection. Even as specific a task as mosquito abatement can be the responsibility of a special district.

**LOCAL ELECTIONS** Elected officials run most local governments, although heads of special districts are sometimes appointed. In the United States as a whole, the total number of elected local officials approaches half a million people. But despite the large number of local elections, actual rates of citizen participation in them are surprisingly low. If a particularly colorful candidate runs for mayor, or if ethnic or racial issues rise up, large numbers of voters can show up at the polls. But usually the local electorate is about half the size of the presidential electorate. The sheer number of elected officeholders often makes local elections confusing. The near invisibility of local elections also helps reduce local participation rates. Newspaper coverage is haphazard. Local governments often hold their elections at times that coincide with neither state nor national elections, which further reduces turnout.

**POPULARITY OF LOCAL GOVERNMENT** This diverse, half-democratic system might seem irrational and doomed to fail. Yet local governments remain popular. According to survey results, 37 percent of the population trust their local governments more than other levels of government, compared to only 19 percent who trust the federal government the most (see Figure ?). Only 8 percent feel their local governments are most wasteful of their tax dollars, compared to 66 percent who feel this way about the federal government.

One explanation for the apparent popularity of local government, despite the low profile of its elections, is the ability of people to “vote with their feet”—that is, to move from one community to
another—if they are unhappy. Americans are a mobile people: Over 17 percent move each year. Every local government official knows that if the government is inefficient or unresponsive, population and property values will drop. As a result, most local governments have good reason to be mindful of their constituents’ needs and desires.

The ability to move is important, because it allows people to “shop” for the type of locality in which they wish to live. Some people favor sex education programs and condom distribution in schools; others do not. Some people think refuse collection should be publicly provided; others prefer to recycle their own garbage. Some people think police protection should be intensive; others think an intrusive police presence violates civil liberties. People can choose where to live based upon the quality of a school system, the level of taxes, the types of recreation available, or a community’s access to airports and highways. By giving people a choice, the diversity of local governments reduces conflict and enhances citizen satisfaction.

**The Jobs Hunt** Local governments compete with each other to attract businesses that generate economic activity. All has positive benefits, in that it keeps localities sensitive to the needs of their wealth producers, sometimes the competition is fierce. One county in Kentucky outbid its neighbors for a Canadian steel mill employing 400 people. It ended up costing the state $350,000 for every job created. Such bidding wars have spread across the country. As one Michigan official put it, “Right now, all we are doing is eating each other’s lunch. At some stage we have to start thinking about dinner.”

Localities pour substantial resources into attracting and retaining sports teams, a symbol of prestige and a source of citizen satisfaction. Cleveland Browns owner Art Modell abruptly decided to move his football franchise to Baltimore, which had promised an expansion of incentives. Baltimore’s mayor and Maryland’s governor participated in the negotiations for the team and helped announce the move. Allen Poe’s ties to Baltimore, the team took on the name Ravens. Cleveland officials were incensed. Mayor Michael White said it was a “kick in the teeth.” Undaunted, the city worked with major financial backers to resurrect the Browns, this time as an expansion team. The team played its first season in a brand-new $283 million stadium. While the drama surrounding the Browns is rare, sports franchises commonly threaten to move their teams if they do not receive assistance from the cities where they are located.
**Education Policy** Primary responsibility for education resides at the state and local level. This decentralization means that taxes for education often go straight to the local community and so are not as unpopular as many other taxes. Today, 95 percent of the cost of public education is paid for out of state and local budgets, each contributing approximately half the cost (though the exact percentage paid varies widely from one state to another). Nevertheless, elderly voters often defeat bond issues intended to increase school funding.

The public’s commitment to local public schools is historically rooted. As early as 1785, Congress set aside the revenue from the sale of one-sixteenth of the land west of the Appalachian Mountains to help pay for “the maintenance of public schools.” Support for public schools intensified with the flood of immigrants that arrived in the nineteenth century, because the institutions helped build American democracy. Public schools fostered a common language among people from disparate parts of the world and reinforced a common American identity. They also educated the workforce to operate the new machines that eventually turned the country into an industrial power.

Nevertheless, public schools are not as popular as they once were. From 1973 to 1999, the percentage of Americans expressing “a good deal” or “quite a lot” of confidence in the public schools dropped from 58 percent to 34 percent (see Figure 15.5). Critics argue that public institutions are local monopolies that perform badly, pointing to weak performance by American students in reading, science, math, and geography. Schools serve the interests of the adults teaching in and administering them, they say, not those of the students. Modern educators are more interested in making every child equal than they are in helping children achieve the limits of their potential. They no longer unify American children, instead pushing a multicultural agenda that undermines the nation’s individualism.

All of these criticisms have added up to a loss of faith. Public schools have not benefitted from the generous funding increases enjoyed by other government programs. The share of resources dedicated to elementary and secondary education has increased only slightly over the past 25 years.
and 1995, spending inched upward from 4.7 percent to 5 percent of the country’s gross domestic product (a measure of economic productivity). Teacher salaries, relative to salaries in other occupations, have hardly improved at all.

**STATE GOVERNMENT**

The federal government’s design was adapted from constitutions in many states. Thus it is not surprising that the basic organization of most state governments bears a strong resemblance to that found in the U.S. Constitution. Just as Congress has the Senate and the House, legislatures have an upper and a lower chamber in all states except Nebraska (which has only one chamber). All states have multi-tiered court systems roughly comparable to that of the federal system. And every state has an independently elected governor, the chief executive of the state, whose responsibilities roughly parallel those of the president.

State governments differ in many important ways, however. State legislatures vary greatly in size. Most lower houses have around 100 representatives, but New Hampshire’s lower house contains 398 legislators while other states have as few as 40. Some state governments hold their elections in even-numbered years, in conjunction with federal races; others do not. In some states, administrative officers such as the secretary of state and the attorney general are elected, whereas in other states the governors appoint these officials.

State policies vary as well. For example, there is significant variation in the legality of assisted suicide, the rules governing a woman’s access to an abortion, and social welfare policies across states. In South Dakota most consumer fireworks are permitted, but in Georgia even sparklers are against the law. In Nevada gambling is legal, yet in Idaho it is a misdemeanor. Until the federal government clamped down on it, states varied widely in their minimum drinking ages as well.

**STATE ELECTIONS** Despite differences among states, state elections bear a strong resemblance to national elections. The same two political parties—the Republicans and Democrats—are the dominant competitors
in nearly all state elections. A new trend toward competitive politics and divided government has
developed in most states (see Figure 3.6). The voters may like this split in power: Each party can act as a
check on the other, and government does not drift to either political extreme.\textsuperscript{56}

\textbf{VARIATION IN RESPONSIBILITIES} The size and range of state responsibilities have grown dramatically in
recent decades. As a percentage of GNP, state expenditures increased by over 60 percent between 1962
and 1995. States bear heavy responsibilities for financing education at all levels. They maintain parks,
highways, and prisons. They manage welfare and Medicaid programs that serve low-income populations.
They give grants to local governments to help pay for police, fire, and other basic governmental services.

The amount spent on government services varies from state to state. For one thing, wealthier states
spend much more on public services. In 1995, the state and local governments in the ten richest states
spent an average of $6,600 per person on public services, whereas in the ten poorest states they spent, on
average, less than $4,500 (although of course the purchasing power of a dollar may be greater in a poor
state).\textsuperscript{57} Federal grants have done little, if anything, to reduce fiscal inequalities. Expenditures are also
affected by elections. Each party has its favorite type of public service. Democrats in the legislature tend
to prefer high expenditures for social services. The more Republicans who win, the higher the expenditure
for traditional government services.\textsuperscript{58}

As state government has become more complicated, state legislatures have also become more
professional. That is, they have lower turnover rates, higher salaries, more staff, and longer sessions. In
1995, California’s legislature was among the most modern. Its members remained in session throughout
the year, receiving $72,000 in salary, retirement benefits, and handsome daily expense payments as well
as the services of a full-time staff. Turnover rates were only about 18 percent. By contrast, Wyoming paid
its legislators $125 dollars a day and limited its legislative sessions to a maximum of 40 working days in
odd-numbered years and 20 days in even years. It had a turnover rate twice that of California.\textsuperscript{59} During
the 1990s, voters reacted against the professionalization of state government, as many states limited the
terms of legislators, cut their staffs, and reduced their salaries and benefits.

**THE RESURGENT GOVERNORS** Being governor of a medium- to large-sized state has become one of the
best ways to prepare for a presidential run. Four of the last five U.S. presidents have been governors, and
former governors have been major candidates in every presidential election campaign since 1976. George
W. Bush’s popularity as governor of Texas, coupled with the advantages of a well-known family name,
quickly catapulted him into the presidential limelight.

Since 1950 many states have strengthened the office of governor by lengthening terms of office,
reducing term limitations, and enhancing the governor’s veto power over legislation. Most governors now
have a **line-item veto**, a power that allows them to reject specific parts of a bill. Ten governors have a
particularly strong form of the line-item veto that allows them to eliminate or cut particular spending
items. In part because of their newfound strength, governors became influential players in several
national policy debates in the 1980s and 1990s.

**STATE ECONOMIC ACTION** In the nineteenth century, state governments played an active role in their
economies, granting charters to private corporations and investing their resources to assist in the
development of key industries. After the New Deal, the states faded in importance, but many became
active again in the 1980s and 1990s—seeking to reinvigorate their business climate through tax
incentives, worker-training programs, and active recruitment of out-of-state firms.

States with large economies and significant international exports, such as California and Texas, often
arrange trade missions to foreign countries. Some of these missions meet with surprising success. In 1987,
California governor George Deukmejian traveled to Japan to promote the sale of California rice. Most
experts scoffed at his efforts, arguing that native Japanese rice was central to the country’s national pride,
culture, and self-sufficiency. “Negotiating for rice is like negotiating for Mt. Fuji,” said one trade
consultant. Nevertheless, the governor’s efforts did not go unrewarded: By the late 1990s, Japan imported
$100 million worth of rice from California, accounting for 20 percent of the state’s rice crop. The skeptics had to admit they were wrong.61

**AFTER THE ATTACK: THE STATE BUDGET CRUNCH**

State budgets collapsed in 2002. Across the country their revenues fell short by a combined total of $40 billion. Governors and state legislatures needed to identify some combination of tax hikes and spending cuts that would balance their budgets. The choices they made were the worst possible for young Americans of college age – more than half of the cash-strapped states sliced budgets for higher education.

Many colleges and universities immediately responded by raising tuition on their students. Students at Penn State paid a tuition increase of 8 percent in 2001-2002, plus another hike as well as $600 more in fees for the year that followed. Iowa dropped from paying 77 percent of the budget for its three biggest state universities to paying only 60 percent, with tuition increases making up most of the difference. And the University of Washington’s budget proposed an astronomical 16 percent tuition increase. Wisconsin, meanwhile, stopped admitting undergraduates at its 26 campuses.

States tried other desperate measures as well, usually budget cuts that struck the young in some way.60 Indiana’s Democratic governor cut a huge sum from the state’s school for the blind, plus closed campgrounds and pools. Tennessee shut a summer program for gifted and talented high-school students. Oregon’s legislators cut their school budget by $112 million in special session. Illinois planned to cut pre-kindergarten classes for low-income children.

Presumably Americans disliked all this slash-and-burn budgeting by their state governments. Numerous forces came together to cause the predicament. A recession that began near the end of the Clinton presidency persisted longer than expected, probably because of 9/11. This undercut corporate income taxes and increased worker’s compensation payments. An accompanying stock-market decline,
which 9/11 reinforced and talk of war with Iraq exacerbated, reduced taxes from stock manipulations. The growth of Internet shopping cut into sales taxes. The states needed cash badly.

One possible culprit for the budget crunch did not seem responsible: the federal government. Despite increased military spending needs and a growing deficit, the Bush administration’s budget did not cut back in any significant way on domestic spending. It even proposed a 2.8 percent spending increase for education.

When the federal government trims back on grants, news stories regularly appear describing the negative impact that budget cuts will have on state services. The presumption seems to be that states will have less revenue than they had before. But why assume this? The federal government does not somehow generate riches. If Congress does not tax or borrow money for a program, then the cash is still floating around in the economy. States could raise their own taxes and eliminate the costly middle step: no federal bureaucracy to pay, no lobbying Congress, no grant proposals to submit, no federal forms to document expenditures. Why would federal budget cuts doom state programs, then? Obviously something in this story is too simple.

So if states on average still have as much money available as before, the dire predictions about decreasing social services must reflect an unstated assumption: that states cannot find the revenue to compensate for alterations in federal policy. Is this a reasonable assumption? In fact, it is.\textsuperscript{fn}

President Bush pushed through a tax cut in 2001, soon after taking office, that sent checks of approximately $200 each to families all across the United States. At about the same time, state revenues began to shrink because of a recession that started before Bush took office. Yet few states raised taxes to take advantage of the extra money that Bush had returned to taxpayers. Instead, they slashed state budgets – 39 states cut their projected 2002 budgets by a combined $15 billion.

Education spending took the hardest hit. At least 17 states cut spending on elementary and secondary education, while 29 slashed budgets at their colleges and universities, a loss that many higher-education systems made up by increasing tuition and fees paid by students.
CHAPTER SUMMARY

Federalism divides sovereignty between the states and the national government. Its existence in the United States is the result of a compromise between Constitutional Convention delegates who believed that a strong national government was necessary to preserve stability and those who feared that centralized power would lead to tyranny. The compromise that resulted does not define governmental powers clearly. As a result, the nature of American federalism has changed in response to numerous events, including key elections.

The election of strong Democratic majorities in the 1960s allowed the national government to put in practice a theory known as cooperative or marble-cake federalism, which holds that all levels of government can and should work together. In accordance with this theory, the federal government increased tax revenues but then distributed the new funding back to state and local governments through new federal grants. Many of these grants were categorical in nature; they contained restrictions that specified how the money should be spent. Republicans have tried to limit the restrictions placed on states and otherwise to increase state power. But even after numerous judicial appointments made by Republican presidents and a Congress controlled by the Republican party, the changes have been modest.

Despite the expansion of federal power, state and local governments remain vital components of the federal system. Nearly half of domestic spending by government comes out of state and local budgets, so these governments can play key roles in economic development. Governors are well-known political figures, often positioned to seek the presidency. Though few citizens participate in local elections, local governments are the most popular of all governmental levels, in part because people can “vote with their feet”—that is, they can choose local communities suited to their tastes.

The growing power of the national government in some ways represents a frustration of popular desires, since Americans generally trust their local officials more. They are annoyed by a federal bureaucracy that hands down orders, ignoring local needs. Yet the principled desire for a weaker national
government is not strong; it usually falls by the wayside when states block one’s policy goals. So frustration with centralized government should not conceal an important fact: the new balance in favor of national power has made it easier for popular majorities to change American social life rapidly. Centralization is an important part of the background in which America’s new democracy operates.

**KEY TERMS**

block grant, p. 76

categorical grant, p. 74

commerce clause, p. 68

devolution, p. 79

dual sovereignty, p. 65

federalism, p. 65

general revenue sharing, p. 76

implementation, p. 75

line item veto, p. 87

marble-cake federalism, p. 73

*McCulloch v. Maryland*, p. 68

necessary and proper clause, p. 68

New Deal, p. 70

NIMBY problem, p. 80

nullification, p. 68

sovereignty, p. 65

spending clause, p. 68

supremacy clause, p. 68

unfunded mandates, p. 78

unitary government, p. 65

War on Poverty, p. 75
SUGGESTED READINGS

Conlan, Timothy. *From New Federalism to Devolution: Twenty-Five Years of Intergovernmental Reform.*


ELECTION CONNECTION

The Nullification Doctrine

Many Americans considered the Constitution a limit on national government, an understandable impression given the strong wording of the Tenth Amendment and the ambiguity of other clauses. Indeed, some thought state sovereignty so complete that they propounded the doctrine of nullification, which says that state legislatures can invalidate unconstitutional acts of Congress.

States first used this doctrine in 1798. In that year, the Federalist Congress was upset by criticisms of their party, and especially of President John Adams during a foreign-policy crisis with France. They feared the growing power of Vice President Thomas Jefferson and the Democratic-Republican party he led. Congress passed the Sedition Act, a ban on criticism of most national leaders (except Jefferson). Opposition newspaper editors were soon imprisoned, and even Congressman Matthew Lyon was sentenced to four months in jail for insulting Adams. Federalists no doubt hoped censorship could suppress Jefferson's presidential campaign against Adams.

Outraged Jeffersonians in Virginia and Kentucky initially invoked the nullification doctrine, passing state resolutions to void the laws. Jefferson and his protégé, James Madison, wrote the resolutions, arguing that the Sedition Act of 1798 was unconstitutional. The doctrine’s legal status remained unresolved, however, because their attempt to shut off debate backfired on the Federalists.

Closing newspapers and arresting people for political speeches undermined any claim that Jefferson’s “French party” threatened liberties the Federalists would protect. The Democratic-Republicans took firm control of the national government after 1800, and a new Congress discontinued Sedition Acts.

The main application of the doctrine took place when regional conflict between the North and South started heating up. During the Jackson administration the conflict
focused on tariffs, or taxes on imports, which Southern planters generally opposed but Northern merchants generally supported. Former Vice President John Calhoun’s supporters in South Carolina called a state convention, which declared the tariff null and void in the state. President Jackson prepared to use armed force to crush the dissidents, but cooler heads prevailed. Congress passed a new tariff, and South Carolina agreed to pay it.

Southern leaders continued to espouse the doctrine of nullification—and to maintain their right to secede peacefully from the Union—because they were afraid that the national government would take away their slaves. Abraham Lincoln’s election brought the issue to a head in 1860, since Lincoln represented the antislavery Republican party. The South seceded from the Union in response to his election. Only after half a million soldiers had died and the countryside had been laid to waste was the doctrine of nullification finally repudiated.

What do you think?

• If the national government passed unconstitutional legislation today, should state governments resist?

• If so, what prevents abuse of the power?

• If not, how can federalism help guarantee rights and liberties?

**ON THE WEB**

National League of Cities
National Conference of State Legislatures
National Governor’s Association

www.nlc.org
www.ncsl.org
www.nga.org

Several interstate governmental organizations provide information and policy priorities for state and local governments.

**Urban Institute**

www.urban.org/

On this Web site, the Urban Institute presents information about its ongoing assessment of new programs whereby responsibility devolves to the states.

**Federalism**

www.min.net/~kala/fed/

Created by a doctoral student at George Washington University, this Web site covers nearly every aspect of federalism, from philosophy to economics to history.
FIGURE 3.1

Development of American federalism

Nationally elected leaders, state legislators, and courts have all been instrumental.

FIGURE 3.2

Growth and decline in federal grants to states and localities

Expenditures for categorical grants continue to rise, whereas expenditures for block grants have declined in recent years.

Sources: Paul E. Peterson, *The Price of Federalism* (Washington, DC: Brookings, 1995), Ch. 5; U.S. Bureau of the Census, *Federal Aid to the States for Fiscal Year 1998*. (Note: Totals exclude defense expenditures. Deriving precise estimates of block and categorical grants is a difficult undertaking. Here we have employed grants used mainly for developmental purposes as a proxy for block grants and grants used mainly for redistributive purposes as a proxy for categorical grants.)

FIGURE 3.3

Block grants for traditional governmental services

Richer states usually get more money than poorer states. Is this unfair, or do rich states deserve more because they pay more to the federal government in taxes?


FIGURE 3.4

Domestic expenditure of governments

State and local governments spend almost as much as the national government.


FIGURE 3.5

Evaluations of federal, state, and local governments

Why do you think more people trust local government than other governments?


FIGURE 3.6

States with divided government
Increasingly, the governor of a state belongs to a party different from the party that controls one or both houses of the state legislature. Is this pattern an accident or the result of conscious decisions by voters?

Let the good times roll

States have varying cultures, and this diversity can lead to wide differences in their social regulations. The state of Louisiana’s southern half, for example, still bears heavy influence from its days as a colony of France and then Spain. This spicy Latin mix, augmented by carnival celebrations and musical festivals, leads to a more-tolerant attitude toward alcohol than found in states with an Anglo-Saxon heritage. Here we see the city’s French Quarter inundated with revelers, many of them under age. If a region’s attitudes seem “unenlightened,” when should the nation impose its cultural preferences? When should it defer to local tastes and let states do their own thing?

Waves of grain?

Before the New Deal, the Supreme Court ruled that the power of Congress to regulate commerce generally only applied to goods produced or processed in multiple states. But the New Deal court decided that Congress can prevent farmers from growing food even if their produce will never leave the farm. Do you think the framers envisioned a national government that could regulate agriculture so closely?

Congress dumped a problem on the states, but the Supreme Court said no

Citizens organized protests and demonstrations whenever a town was named as a potential site for a waste dump. Why did the Supreme Court reject Congress’s response to this “Not in My Back Yard” (NIMBY) problem?
**Table 3.1**

**Constitutional Division of Power Between National and State Governments**

<table>
<thead>
<tr>
<th>Powers Granted</th>
<th>Powers Granted to the National Government to the State Governments</th>
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</thead>
<tbody>
<tr>
<td>Conduct foreign affairs</td>
<td>Maintain state militias (the National Guard)</td>
</tr>
<tr>
<td>Raise armies and declare war</td>
<td>Regulate commerce within the state</td>
</tr>
<tr>
<td>Regulate imports and exports</td>
<td>Regulate commerce within the state</td>
</tr>
<tr>
<td>Regulate interstate commerce</td>
<td>Establish and operate state court systems</td>
</tr>
<tr>
<td>Regulate immigration and naturalization</td>
<td></td>
</tr>
<tr>
<td>Levy taxes</td>
<td>Levy taxes</td>
</tr>
<tr>
<td>Borrow money</td>
<td>Borrow money</td>
</tr>
<tr>
<td>Coin money</td>
<td></td>
</tr>
<tr>
<td>Provide for the general welfare</td>
<td></td>
</tr>
<tr>
<td>Make laws “necessary and proper”</td>
<td>Exercise powers not granted to national to accomplish the above tasks</td>
</tr>
<tr>
<td></td>
<td>government</td>
</tr>
</tbody>
</table>
States that did not raise their drinking ages would lose 5 percent of their highway construction funds in 1986 and 10 percent starting in 1987.

Local governments—such as cities, counties, towns, and school districts—are also important parts of government in the United States, but they are not fundamental units in the U.S. federal system in the same way that the national and state governments are. According to a long-standing legal doctrine known as Dillon’s rule (after the Iowa state judge John Dillon), local governments are in legal terms mere “creatures of the state” that a state legislature may alter or abolish at any time.

Unless otherwise indicated, all amounts in this chapter are calculated in 1998 dollars.


and the strong feelings of the state’s young adults, the statewide results supported a higher drinking age because women overwhelmingly endorsed the higher limit. It is unclear how much of the position reflected sincere policy preferences and how much represented desire for the “blackmail portion” of the funds.

13. Ed Anderson, “Gamblers, Drinkers Still Must Be 21,” *New Orleans Times-Picayune* (June 5, 1999): A2. At least some members of the House said they opposed the bill not because it would lower the drinking age, but because it would also lower the gambling age and might prevent companies from giving senior citizens special discounts.


35. Executive Office of the President, Office of Management and Budget, *Budget for Fiscal Year 2000, Historical Tables*, Table 12.3.


