1. Governmental Structure
   1. The single most persistent source of conflict in U.S. politics since the adoption of the Constitution has been the relations between the national and state governments.
   2. Today, an effort is underway to reduce national gov’t powers, giving more strength to the states; this effort is known as devolution.
      1. Some proposals give states block grants in which states get money that they can spend in any way they want—as long as it is within broad guidelines set by Congress.
   3. Federalism is the political system in which local units of government and a national government make final decisions with respect to at least some governmental activities and whose existence is specially protected; both local and national forms of government have their own sovereign powers and some powers that overlap, thus making the two share authority.
      1. The United States, Canada, Australia, India, Germany, and Switzerland have federal systems.
      2. France, Great Britain, Italy, and Sweden have unitary systems in which the national government can abolish local governments at will and have the final say in all important gov’t matters.
      3. Federalism works in practice due to the people; the USSR technically had a “federalist” gov’t, but in reality, the Kremlin controlled the “states.”
         1. It takes the commitment of the people to support a slightly independent local gov’t and the same desire from the Congressmen to allow local governments to exist.
      4. The national government, while owning sweeping powers, actually exercises most of those powers through state, county, and city governments.
   4. To some, federalism means allowing states to block actions, prevent progress, upset national plans, protect powerful local interests, and cater to the self-interest of hack politicians; to others, it means developing mechanisms vital to governmental strength, political flexibility, and individual liberty.
      1. Federalism allows people to pass laws according to local interest, and even though some may pass bad laws, others may pass laws to counteract the previous “bad” laws.
      2. EXAMPLE: In England and France, local groups would have no success in trying to ban the landing of Concorde jets in local airports, but in the U.S., such groups have actually won.
   5. According to James Madison, since there are so many diverse interests, only a large government (like the U.S.) can adequately have the maximum number of sides to be heard, as opposed to small nations, where not as many interests could be known and argued.
   6. Federalism is more likely to get the average Joe interested in politics because there is a more likely chance that what Joe does will have an effect on politics and on his life.
      1. This is due to the numerous elected representatives in all levels of gov’t.
2. The Founding
   1. To the founding fathers, federalism seemed the perfect way to protect personal liberty, since concentrating all power into one hand (even one popularly elected hand) might prove to be tyrannical; while working under a confederation, or an alliance of states where the state governments are more powerful than the national governments, could totally prevent progress.
   2. The Founders envisioned federalism as a system in which both national and state governments would have certain powers, but neither would have supreme authority over the other.
      1. In Federalist No. 46, Madison argued that state and national governments were simply different agents and trustees of the people, who held the ultimate power.
      2. In Federalist No. 28, Alexander Hamilton explained that, in federalism, people would shift their support between national and state governments to keep the two in balance.
   3. Actually, this was a brand-new plan in which no one really knew how it would work; little discussion of it actually took place, and few people even used the word “federalism” to mean what we mean today.
      1. In fact, it wasn’t until the 10th Amendment that states actually received power; in that amendment, all power not given to the national gov’t are given to the states.
      2. On the other hand, it seems that the national government has usually retained these “other powers” anyway, despite what is said, due to support from the courts.
      3. The language used to describe national/state government relationships was vague, and it was later left up to the courts to interpret it.
   4. Knowing that they could not possibly list every single power that Congress could have, the Founding Fathers added the elastic clause: “Congress shall have the power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers.”
      1. Coming out of the Constitutional Convention in Philadelphia, different views of federalism were carried: (1) Alexander Hamilton believed that the national government was the superior and leading force in political affairs, since the people created it and its laws were the “supreme law of the land;” (2) Thomas Jefferson believed that “the people” were the ultimate sovereigns, and since the states was a result of agreement among the states, the states were supreme over the national gov’t.
         1. Hamilton believed that the Constitution could be loosely interpreted while Jefferson believed in a strict interpretation of the Constitution (later used in argument for the Bank of the United States, which was “necessary and proper,” as said by Hamilton, who supported it, but “not addressed in the Constitution and therefore illegal,” as said by Jefferson, who was against it).
         2. James Madison first supported national supremacy but later switched to states’ rights.
3. The Debate on the Meaning of Federalism
   1. The Civil War was fought over the issue of national supremacy vs. states’ rights, but its conclusion only settled the fact that the national government’s sovereignty came from the people, that the national gov’t was supreme, and that states couldn’t secede, but left other issues open.
   2. In the U.S.’s early years, the Supreme Court was led by Alexander Hamilton’s firm supporter: Chief Justice John Marshall.
      1. In a series of rulings, he upheld the supremacy of the national gov’t.
      2. In McCulloch v. Maryland, James McCulloch, a Baltimore cashier of the Bank of the United States, refused to pay the taxes that the state of Maryland levied on money and was jailed.
         1. Marshall ruled that Maryland had no right to tax the notes of national currency, and thus, McCulloch had the right not to pay a tax that wasn’t supposed to be levied.
         2. That ruling also firmly strengthened the “necessary and proper” (elastic) clause.
   3. Later, the Supreme Court ruled that since state governments couldn’t tax federal bonds, the national gov’t couldn’t tax the interest people earned from state and municipal bonds… but in 1988, it changed its mind and gave Congress the power to do so; so far, Congress has chosen not to do so.
   4. In response to the Alien and Sedition Acts, James Madison and Thomas Jefferson wrote the Virginia and Kentucky Resolutions, stating that states had the right to “nullify” laws that, in the state’s opinion, violated the Constitution, thus presenting the concept of nullification.
      1. John C. Calhoun later revived this doctrine, and the ensuing battle later led to the explosion of the Civil War.
   5. The doctrine of Dual Federalism emerged after the Civil War; it stated that though the national gov’t was supreme in its sphere, state governments were supreme in theirs as well, and that these two spheres should be kept separate.
      1. This applied to commerce: Congress could regulate interstate commerce, but states regulated intrastate commerce.
      2. The courts were left to specify the difference between inter- and intrastate commerce, but for a while, it simply classified differences according to product…then came the question of when commerce turned from interstate to intrastate.
      3. Eventually, the courts decided to let Congress regulate practically everything that flowed within the stream of interstate commerce; anything that was related to interstate commerce, such as window washers working on a building housing an insurance company that dealt insurance to people inside and outside of the state, was regulated by Congress.
      4. Currently, the differences are complex and hard to explain, but the concept of dual federalism is far from being extinct.
4. Federal-State Relations
   1. The national gov’t is supreme, but Congressmen selected from the states must pass its laws.
   2. The best illustration of how political realities may affect legal authority can be found in federal grants-in-aid, where the national gov’t granted land or money to various people or places for helpful use.
      1. At first, cash grants weren’t plentiful, as they were usually devoted to helping state militias or such, but in the 20th century, these exploded, and today, housing aid fro low-income families, Medicaid, highway construction, services to the unemployed, and welfare programs for single mothers and for the disabled take up a huge chunk of grants-in-aid.
      2. While states wanted money, Congress couldn’t simply give cash to them without reason or Constitutional authorization; the solution was for Congress to give money to state (pay the bills) and for states to do what they needed to do (run the exercises).
      3. Reasons for states’ turning to Washington for $$$: (1) There was a lot of it (in the 1800s, there were lots of surpluses); (2) The federal government had an income tax that could generate revenue; (3) The federal gov’t could print more cash whenever it needed it and only had to borrow from itself; (4) Politics—federal money seemed to be “free” money for states.
      4. On the other hand, if Washington sends money to one state or congressional district, it will have to send money to all others as well, since it “wouldn’t be fair” for just one state to get the cash while others have nothing.
   3. In the 1960s and beyond, though, the national gov’t began giving money not according to states’ needs, but to what it thought would be best for national needs.
      1. Unfortunately, some states and cities became dependent on national financial aid.
      2. To fix this, intergovernmental lobbies have been set up to seek national aid for cities & states.
         1. For a while, cities and states did get more money but by the 1980s, federal grants had stopped growing.
   4. To get more money, lobbyists wanted federal aid moved from categorical grants, or one with a specific purpose, to revenue sharing, where a set amount of money could be distributed to anything (funds didn’t have to match in subject) or to block grants.
      1. Block grants were basically categorical grants jumbled together to form one large, broad grant to which cities could easily adapt their funds to support; only five were enacted—among them was one devoted to cities, another to law enforcement, and a third to the unemployed.
      2. In theory, block grants and revenue sharing were supposed to give states total freedom to do what they wanted with money, but in reality, the money did not become as readily available as states hoped and the federal gov’t actually increased restrictions on this “unrestricted” money.
5. The Slowdown in “Free” Money
   1. Categorical grants gave the federal gov’t, not the states, control over the money, and this was good for Washington, since federal officials tended to distrust state governments.
   2. Revenue sharing spread money out so much that to individual receivers, the cash wasn’t “a matter of life and death,” whereas in categorical grants, it often was “a matter of life and death” because of the concentration of cash.
      1. Revenue sharing money went to all divisions, regardless of need, and thus was wasteful.
   3. The more important federal money becomes to the states, the more likely they are to fight over it, and the question of whether the federal gov’t helps certain areas of the country by distributing more cash to those areas arises.
      1. It is very hard for Washington to figure out how to distribute money, since money given to a defense contractor headquartered in California might go to New York if that contractor pays subcontractors from that area.
      2. Recently, “distribution formulas” have arisen to decide this, thus giving huge importance to the results of the census, which is taken every 10 years.
      3. Distribution formulas are okay, since there are computers take can predict all effects, but even occasionally, such formulas may end up strangely doling out money where it’s not needed.
6. Federal Aid and Federal Control
   1. Some people fear that the federal gov’t is controlling the states by controlling the money that goes to them, thus, in effect, nullifying the 10th Amendment.
   2. The fed gov’t can control state activities by using traditional controls (telling a state gov’t what it must do to get grant money) and attaching conditions of aid or by using mandates—telling the states what they must do period.
   3. Mandates can concern civil rights (no discrimination on sex, race, or disability) and environmental protection (anti-pollution laws).
      1. Some mandates are clearly advantageous and easily to enforce (like no dumping sewage into the ocean) while others are not so clear and hard to administer (like the Americans with Disabilities Act of 1990, where the disabilities have to be specified).
      2. Mandates, along with certain taxes, can be used by the fed gov’t to impose costs on states.
      3. Citizens can also control the behavior of local governments, thanks to the Supreme Court, by suing them over just about anything that they are “entitled to” under federal law.
   4. Conditions of aid are purely optional (don’t want restrictions, don’t take money), but since much of the state budgets depend on federal grants, these conditions are often taken anyway, w/ or w/o gusto.
      1. These conditions can be specific (i.e. only applying to highways and beautification) or general.
      2. Example Problem: The 1973 Rehabilitation Act forbid discrimination of disabled people in any program receiving federal financial aid; loosely read, this could mean that otherwise capable disabled persons had to be hired for jobs, but broadly read, it could mean that buses and subways had to give access for disabled people onto their vehicles.
      3. Basically, this “free money” was no longer free.
   5. Bargains struck to get benefits while passing costs onto the other side used to benefit local officials, since the Congressmen were elected by the local people, but ever since the 1960s, American politics has shifted to favor Washington’s needs over local needs.
      1. President Richard Nixon tried to reverse this by creating block grants and revenue sharing.
      2. President Ronald Reagan tried to stop this by combining 33 categorical grants into six large block grants, but Congress attached restrictions to many of the new grants.
      3. Thus, the cutbacks in money during the 1980s led to many states experimenting with new ways of delivering services.
7. A Devolution Revolution?
   1. The Reagan administration nudged the political pendulum in favor of states’ getting lots of leeway, but the 104th Congress, dominated by Republicans for the first time in 40 years, worked VERY hard to shove in further in that direction.
   2. There are three type of block grants: operational grants are for purposes like running state child care programs; capital grants are for purposes like building local wastewater treatment plants; entitlement grants are for purposes like transferring income to families and individuals.
      1. All of the block grants that existed before the 104th Congress convened were operation or capital only, and thus, the 104th Congress enacted a large number of entitlement grants.
         1. Welfare (Aid to Families with Dependent Children) and Medicaid were not created as block grants, though they account for half of all federal grant-in-aid spending.
         2. However, the 104th Congress tried to turn these two in block grant programs.
         3. Welfare did turn into a block program, but Medicaid did not.
   3. Devolution seems to be driven by three things:
      1. People distrust the federal gov’t and feel that governments closer to the people can serve the people better than distant federal governments.
      2. In order for the fed gov’t to decrease spending on, say, Medicaid, state governors must receive certain powers in exchange for going along with certain caps in grants-in-aid.
      3. Most citizens also feel that devolution is a good thing, at least in principle.
8. Congress and Federalism
   1. The devolution movement may gain steam or fizzle out, but in the end, the U.S. will NOT remain a wholly centralized nation.
   2. Still, Congressmen sometimes pass laws that impede upon progress because of their different backgrounds and because of how they expect their constituents would act on certain subjects.
      1. Organizations that once linked members of Congress to local groups have eroded.
      2. Party groups are becoming more and more varied, and a city or state may not have a single authority that can represent it.
      3. The best deciders of policies are no longer the politicians, but the occupation-holders like the teachers and doctors of a city.
      4. People also differ on how they feel local and federal governments benefit them (depending on financial state, gender, race, and/or religion).
   3. On the other hand, it is this diversity that keeps federalism alive and prevents the United States from falling into a unitary system.