

## Study Outline

### Chapter 3: Federalism

- I. Governmental structure
  - A. Federalism: good or bad?
    - 1. Definition: political system with local governmental units, in addition to national one, that can make final decisions
    - 2. Examples of federal governments: Canada, India, and Germany
    - 3. Examples of unitary governments: France, Great Britain, and Italy
    - 4. Special protection of subnational governments in federal system is the result of:
      - a. Constitution of country
      - b. Habits, preferences, and dispositions of citizens
      - c. Distribution of political power in society
    - 5. National government largely does not govern individuals directly but gets states to do so in keeping with national policy
    - 6. Negative views: block progress and protect powerful local interests
      - a. Laski: states "poisonous and parasitic"
      - b. Riker: perpetuation of racism
    - 7. Positive view: Elazar: strength, flexibility, and liberty
    - 8. Federalism makes good and bad effects possible
      - a. Different political groups with different political purposes come to power in different places
      - b. *Federalist* No. 10: small political units dominated by single political faction
  - B. Increased political activity
    - 1. Most obvious effect of federalism: facilitates mobilization of political activity
    - 2. Federalism lowers the cost of political organization at the local level.
- II. The Founding
  - A. A bold, new plan to protect personal liberty
    - 1. Founders believed that neither national nor state government would have authority over the other because power derives from the people, who shift their support.
    - 2. New plan had no historical precedent.
    - 3. Tenth Amendment was added as an afterthought, to define the power of states
  - B. Elastic language in Article I: necessary and proper
    - 1. Precise definitions of powers politically impossible because of competing interests, such as commerce
    - 2. Hence vague language--"necessary and proper"
    - 3. Hamilton's view: national supremacy because Constitution supreme law
    - 4. Jefferson's view: states' rights with people ultimate sovereign
- III. The debate on the meaning of federalism
  - A. The Supreme Court speaks
    - 1. Hamiltonian position espoused by Marshall
    - 2. *McCulloch v. Maryland* settled two questions.
      - a. Could Congress charter a national bank? (yes, because "necessary and proper")
      - b. Could states tax such a bank? (no, because national powers supreme)
    - 3. Later battles
      - a. Federal government cannot tax state bank
      - b. Nullification doctrine led to Civil War: states void federal laws they deem in conflict with Constitution
  - B. Dual federalism
    - 1. Both national and state governments supreme in their own spheres
    - 2. Hence interstate versus intrastate commerce
      - a. Early product-based distinction difficult
      - b. "Original package" also unsatisfactory
  - C. State sovereignty
    - 1. Mistake today to think that doctrine of dual federalism is entirely dead
    - 2. Supreme Court limited congressional use of commerce clause, thus protecting state sovereignty under Tenth Amendment

3. Supreme Court has given new life to Eleventh Amendment
4. Not all recent Supreme Court decisions support greater state sovereignty.
5. New debate resurrects notion of state police powers
6. Many state constitutions open door to direct democracy through initiative, referendum, and recall.
7. Existence of states guaranteed while local governments exist at pleasure of states

#### IV. Federal-state relations

##### A. Grants-in-aid

1. Grants show how political realities modify legal authority.
2. Began before the Constitution with "land grant colleges," various cash grants to states
3. Dramatically increased in scope in the twentieth century
4. Were attractive for various reasons
  - a. Federal budget surpluses (nineteenth century)
  - b. Federal income tax became a flexible tool
  - c. Federal control of money supply meant national government could print more money
  - d. "Free" money for state officials
5. Required broad congressional coalitions

##### B. Meeting national needs: 1960s shift in grants-in-aid

1. From what states demanded
2. To what federal officials found important as national needs

##### C. The intergovernmental lobby

1. Hundreds of state, local officials lobby in Washington
2. Purpose: to get more federal money with fewer strings

##### D. Categorical grants versus revenue sharing

1. Categorical grants for specific purposes; often require local matching funds
2. Block grants devoted to general purposes with few restrictions
3. Revenue sharing requires no matching funds and provides freedom in how to spend.
  - a. Distributed by statistical formula
  - b. Ended in 1986
4. Neither block grants nor revenue sharing achieved the goal of giving states more freedom in spending
5. Block grants grow more slowly than categorical grants.
  - a. Desire for federal control and distrust of state government
  - b. No single interest group has a vital stake in multipurpose block grants, revenue sharing
  - c. Categorical grants are matters of life or death for various agencies.

##### E. E. Rivalry among the states

1. Increased competition a result of increased dependency
2. Snowbelt (Frostbelt) versus Sunbelt states
  - a. Difficulty telling *where* funds spent
  - b. Difficulty connecting funds to growth rates
  - c. Focus on formulas and their impact
3. Census takes on monumental importance

#### V. Federal aid and federal control

##### A. Introduction

1. Fear of "Washington control" and jeopardy of Tenth Amendment
2. Failed attempts at reversal in trends (block grants and revenue sharing)
3. Traditional and newer forms of federal controls on state governmental actions
  - a. Conditions of aid tell a state government what it must do to obtain grant money
  - b. Mandates tell state governments what to do, in some instances even when they do not receive grant money

##### B. B. Mandates

1. Most concern civil rights and environmental protection
2. Administrative and financial problems often result
3. Growth in mandates, 1981 to 1991
4. Features of mandates
  - a. Regulatory statutes and amendments of previous legislation

- b. New areas of federal involvement
      - c. Considerable variation in clarity, administration, and costs
    - 5. 1. Additional costs imposed on the states through:
      - a. Federal tax and regulatory schemes
      - b. Federal laws exposing states to financial liability
    - 6. 6. Federal courts have fueled the growth of mandates
      - a. Interpretations of the Tenth Amendment have eased flow of mandates
      - b. Court orders and prisons, school desegregation, busing, hiring practices, police brutality
  - C. Conditions of aid
    - 1. Received by states voluntarily, in theory
      - a. Financial dependence blurs the theory
      - b. Civil rights generally the focus of most important conditions in the 1960's, a proliferation has continued since the 1970's
      - c. Conditions range from specific to general
    - 2. 2. Divergent views of states and federal government on costs, benefits
    - 3. 3. Reagan's attempt to consolidate categorical grants; Congress's cooperation in name only
    - 4. 4. States respond by experimenting with new ways of delivering services (e.g., child care, welfare, education)
- VI. A devolution revolution?
- A. Renewed effort to shift important functions to states by Republican-controlled Congress in 1994
    - 1. Key issue: welfare (i.e., the AFDC program)
    - 2. Clinton vetoes two bills, then signed the third, to give management to states
  - B. These and other turn-back efforts were referred to as devolution.
    - 1. Old idea, but led by Congress
    - 2. Clinton agreed with need to scale back size and activities of federal government.
  - C. Block grants for entitlements
    - 1. Most block grants are for operating and capital purposes (contra entitlement programs).
    - 2. 2. Republican efforts to make AFDC and Medicaid into block grant programs
    - 3. 3. Partial success and possible effects
      - a. AFDC and a number of related programs are now block grants
      - b. Possible triggering of second-order devolution
      - c. Possible triggering of third-order devolution
      - d. Dramatic decrease in welfare rolls increase in unspent dollars
      - e. Surpluses and Medicaid costs, shortfalls in state revenues and funding surges
  - D. What's driving devolution?
    - 1. Beliefs of devolution proponents
    - 2. Realities of budget deficit
    - 3. Citizen views
  - E. Congress and federalism: nation far from wholly centralized
    - 1. Members of Congress still *local* representatives
    - 2. Members of Congress represent different constituencies from the same localities.
    - 3. Link to local political groups eroded
    - 4. Differences of opinion over which level of government works best