



Chapter 3: The Federal System

Key Terms:

block grants; categorical grants; concurrent powers; cooperative federalism; creative federalism; delegated powers; dual federalism; enabling act; enumerated powers; equalization; extradition; expressed powers; federalism; formula grants; full faith and credit; general purpose grants; horizontal federalism; implied powers; inherent powers; interstate compacts; marble cake federalism; matching requirements; McCulloch v. Maryland; new federalism; "peace dividend"; prohibited powers; "the Reagan Revolution"; regulatory federalism; reserved powers; senatorial courtesy; unfunded mandates; unitary system; vertical federalism

Current Pending Assignment Sheet

Learning Objectives

Chapter 3 Internet Project

Collateral Reading

Relevant Supreme Court Cases

McCulloch v. Maryland; Garcia v. San Antonio Metropolitan Transit Authority; United States v. Lopez

Electronic Assignment

Electronic Test (True and False)

Electronic Test (Multiple Choice)

I. Division of Powers.

A. The U.S. Const. created the **federal system** by allocating power between two levels of government, state and national. **** **Federalism (federal system): A system of government which allocates power between national and state governments. "Federalism" and "federal system" are used interchangeably. Both national and state governments exercise power over the same geographical area.**

B. Federalism, i.e., the federal system, decentralizes political power and our politics, dividing it between the national government and the various state governments. It creates more access points to government. *See linkage institutions*. Additionally, Strengthens the judicial branch, since it is often called up to resolve conflicts.

C. National powers (Six)

1. **Delegated:** The delegated (also known as expressed or enumerated powers) are granted to, and exercised ONLY by the national government. The delegated powers are **specifically** listed in the U.S. Constitution at Articles I, II, III. Delegated powers of Congress, including the power to coin money, enter into treaties, regulate commerce with foreign nations and **among the states**, collect taxes, pay debts, provide for the common defense and general welfare, and declare war. The Supreme Court case of *Gibbons v. Ogden* defined commerce as virtually every form of commercial activity.

2. **Implied:** Implied powers were first established in the United States Supreme Court case of *McCulloch v. Maryland*. In *McCulloch v. Maryland* (1819) Supreme Court ruled that because of the "necessary and proper" clause in Article 1, Section 8, the national government had additional powers that were implied in that clause. Implied powers are those powers of the national government that flow from its enumerated powers and the "elastic clause" of the Constitution. (p. 79) Best exemplified by Congressional authority to pass environmental protection laws.

3. **Inherent:** Those powers that belong to the national government simply because it is the national government. (page 78) E.g., declare war, foreign affairs, acquire new territory. ONLY the national government is allowed to regulate commerce with foreign nations, i.e. foreign trade. Example NAFTA restrictions.

4. **Prohibited:** Expressly bar government from specific actions, e.g. state governments cannot coin money, no *ex post facto* laws or grant titles of nobility.

5. **** **Concurrent:** Concurrent powers are those which are exercised independently by both the national and state governments. (page 78) Those powers shared by both levels of governments, i.e., state and national. Examples: power to tax, power to borrow, and power to regulate commerce within their own borders. Both the federal and state government collaborate with each other within many geographic and policy spheres.

6. **Reserved:** Reserved powers are powers retained by the states. 10th Amendment: "The power not delegated to the United States by the Constitution., not prohibited to it by the States, are reserved to the States or to the people." State powers then are called reserved powers. In our federal system, the powers of the state governments are ultimately granted by the United States Constitution. Most significant reserved power given to states is the power to determine the qualifications for voting. Courts have interpreted **reserve powers** as falling into three categories:

a. Public education

b. Police powers; criminal laws. For example, as a result of our federal form of

government, the death penalty in the United States varies substantially state by state.

c. Right to regulate commerce *within* a state, intrastate commerce.

II. Federalism (In general)

A. Vertical Federalism

1. **Federalism**: A "constitutional arrangement whereby power is divided by a constitution between a national government and constituent state governments, which are called states in the United States. Federalism is a way of organizing a nation so that both national and state levels of government have authority over the same land and people. It is a system of shared power by the state and national governments.

2. **Vertical Federalism** described the obligations established by the Constitution between the states and the national government.

a. national government required to provide a participatory, democratic government; preserve the territorial integrity of the states; and provide protection and assistance in times of domestic upheaval.

b. states consider proposed constitutional amendments and provide the machinery for conducting elections for national officers, i.e., president, vice president and members of Congress.

B. Horizontal Federalism

1. In addition to having a relationship with the federal government (vertical federalism), states have relationships with each other (horizontal federalism). **The workings of the federal system, whether vertical or horizontal, are sometimes called intergovernmental relations.**

2. Article IV of the U.S. CONST., describes the basic relationships between states, in Section 1, "Full Faith and Credit," and Section 2, "Privileges and Immunities." The "Full Faith and Credit" clause is an example of horizontal federalism.

a. Section 1: Concept is that each state must accept other states' public acts, records, and judicial proceedings. E.g., divorce decree in one state must be accepted by other states.

b. Section 2 means that citizens are granted the same rights and duties, no matter what state they reside in. Section also contains provision regarding extradition.

c. **Horizontal federalism** is a concept founded on the "full faith and credit" clause of the U.S. Constitution. It describes the relationship between states, as opposed to the relationship between a state and the national government. An example of **horizontal federalism** is the act of one state recognizing a divorce decree of another state.

C. Contrast the concept of federalism with a confederation, which is a form of governmental

structure. In a confederation, the national government is weak, and *most, if not all* power is in the hands of the various states.

D. As a practical matter, the Framers has no choice but to adopt a federal system because the citizens' loyalty to established state governments at that time were stronger than it was to the newly created United States. The population of the colonies was too dispersed in order to effectively have a unitary system of government (see below), complicated by a primitive transportation and communications system. Moreover, a confederation system had failed, as evidenced by the weak Articles of Confederation.

III. Limitations of State Authority, i.e., the Supremacy Clause

A. Article VI of the U.S. Const. Makes it clear that whenever state and federal laws conflict, the federal law is supreme.

B. **** **Supremacy Clause (national supremacy) is that constitutional requirement that federal law prevails over state law. Simply put, the actions of the national (central) government take precedence if the national government is acting within the scope of constitutional authority.**

"This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land, and the Judges in every State shall be bound thereby."

C. The effect of the Supremacy Clause is to establish a hierarchy of authority:

- 1. United States Constitution**
- 2. United States Laws and Treaties**
- 3. United States Supreme Court Decisions**
- 4. United States Administrative Regulations**

Followed by state hierarchial authority:

- 5. State constitution**
- 6. State Laws**
- 7. State Supreme Court Decisions**
- 8. State Intermediate Appellate Court Decisions**
- 9. State Administrative Regulations**
- 10. Local Ordinances**

D. **Administrative Regulations** are those rules promulgated by the executive branch that clarify, limit, explain and hone legislation. Example: Licensing of barbers

IV. Case study of the "Double Nickels"

A. The federal fifty-five-mile-per-hour speed limit was repealed in December 1995 after two decades.

B. Twenty states (mostly Western ones) increased their speeds to seventy miles per hour or more. Montana imposed no day speed, and Nevada had no speed limits at all.

C. Why were fifty-five-mile-per-hour speed limits imposed?

1. To save gas after oil shortages in the 1970s.
2. Insurance industry studies say fewer highway deaths at lower speeds.
3. Same law removes helmet rules and zero alcohol tolerance rules.

D. Uncle Sam: the carrot and the stick

1. Federal government involved through highway construction funds (Federal Highway Trust Fund).
2. To get federal funds, states kept lower speeds until Congress changed the law in 1995.
3. President Clinton and Congress responded to states' complaints (the federal system and election politics in action).

V. The Federal System

A. Federalism involves constitutional power-sharing between national (central) and local units — each having their own jurisdictions.

1. Ours evolved from a unitary system, which was common in Europe and still is common around the world.
 - a. **Unitary systems** are systems of government in which power is concentrated in the central government. (p. 68)
 - b. Policy is made there and is administered through units at the regional level (no local governmental partners).
 - c. **A unitary system differs from a federal system in that the federal, or national government, can change the boundaries of states, or abolish them.**
2. Our structure involves dividing authority among the federal government, states, and their subdivisions in the local areas (cities, counties, school districts, etc.)
3. According to Cummings and Wise, the question of how the powers will be divided has been central to the system. (The Civil War, in part, was fought over this.)

B. Another case study: Rodney King (1992)

1. Rioting erupted when an all-white jury acquitted white officers of savagely beating Rodney King, a black detainee.

2. Police in Los Angeles were slow to respond, so the governor sent in the California state militia (national guard).

3. The president took the state militia under federal control, and also sent federal marshals to put down the disturbance.

C. Many nations of the world describe themselves as federal, but most are unitary systems disguised in constitutionally federal clothing.

VI. Federalism: The Pros and Cons

A. The Pros

1. Federalism permits diversity and diffusion of power.

2. A number of local units, not remote bureaucracies, deal directly with local problems. (Local governments may better understand local problems.)

3. Has multiple access points for citizen participation in democracy.

4. Less chance that individual rights will be abused by a large aloof bureaucracy with power concentrated in a few hands.

5. Multiple layers of government provide more avenues for innovation, experimentation, and problem solving. Many of the FDR New Deal programs copied the states.

6. It suits a large country with a very diverse population like the United States.

B. The Cons

1. Federalism permits some state and local areas to continue race discrimination (Southern school segregation).

2. Under a federal system, special interests and certain localities can frustrate the realization of national goals. (Examples: poor wages and working conditions for coal miners in West Virginia; automobile and oil industries in some areas)

3. Local communities may lack the expertise to solve problems, and may provide favoritism to some at others' expense.

4. Law enforcement and justice maybe unevenly applied among the states.

5. Local autonomy may get in the way of national unity.

VII. The Checkerboard of Governments

A. Public has to deal with a bewildering array of governments with overlapping local districts. (Example: Park Forest, Illinois, residents paid taxes to eleven units.)

B. 1995 Census Bureau government count found 86,743, including all federal, state and local entities.

C. Martin Grodzins says the federal analogy is not of a three-layered (federal, state, and local) cake, but a **marble cake** with all parts interlaced. **Marble cake federalism** refers to the **three-layered system of government, i.e., national, state, and local governments.**

D. Cooperation and tension among federal, state, and local governments (New York).

1. New York almost went into economic default in 1975.
2. State didn't want to bail it out, but later took over all its books.
3. President Ford planned to let it default, but later relented.

E. Desegregation of schools, race riots, provide a number of examples.

1. In 1957, federal troops are sent by Eisenhower to enforce court-ordered integration at Central High in Little Rock, Arkansas.
2. JFK used federal troops at Ole Miss and the National Guard at University of Alabama to protect entering black students. (Alabama Governor Wallace opposed him.)
3. LBJ sent in paratroopers to quell race riots in Detroit in 1967.
4. President Bush sent troops and federal agents to Los Angeles when rioting erupted following the Rodney King verdict.

F. Differing views on the economic and political role of the federal government.

1. Democrats and Northern GOP see the federal government as a social and economic problem-solver.
2. Conservative GOP and Southern Democrats see the federal government as a danger to individual liberties, and as an "octopus" whose tentacles strangle local initiative.

VIII. The Changing Federal Framework

A. From the nineteenth century until almost the end of the New Deal, **dual federalism**, i.e., some federal-state cooperation existed, but the states and the federal government chiefly saw themselves as competitors. **Dual federalism** is belief that having separate and equally political levels of government is the best arrangement. It is a concept of government under which the Supreme Court saw itself as a referee between two compelling power centers — the states and the federal government — each with its own responsibilities. (page 74) States and the national government each remain supreme within their **own** spheres. Best described as "marble cake" federalism.

B. New Deal social programs changed the equation.

1. Courts approved New Deal intervention in local areas.

2. **Cooperative federalism** evolved. **Cooperative federalism** is described as various levels of government are seen as related parts of a single governmental system, characterized more by cooperation and shared functions than by conflict and competition. (page 74) In cooperative federalism, responsibilities are mingled and distinctions are blurred between the levels of government. Federal government enhances its power and governance becomes "we are all in this together, so we should cooperate." All governments are seen as being a part of a bigger system. Since ratification of the Constitution, American federalism has gradually changed from dual federalism to cooperative federalism. In cooperative federalism, in order to qualify for federal grant money, cities and states must follow strict federal guidelines for adopting and enforcing federal laws.

3. Michael D. Reagan says no wall of separation should exist between state and federal government. He says federal financial aid creates "a nationally dominated system of shared power and shared functions."

C. LBJ called his innovative Great Society programs "**creative federalism.**" **Creative federalism** is a term coined by President Lyndon B. Johnson to describe his own view of the relationship between Washington and the states. During his administration, Congress enacted legislation that further expanded the role of the federal government. (p. 75)

D. A new model of federalism - regulatory federalism - evolved with the advent (since the mid-1960s) of extensive federal regulations mandating functions for states and localities to perform. **Regulatory federalism** is a term used to describe the emergence of federal programs aimed at, or implemented by, state and local governments. (p. 75)

1. Environmental regulations, and regulations on civil rights, hiring, and workplace safety created new mandates for state actions.

2. Often these mandates came without federal funds, i.e., "**unfunded mandates,**" to cover any of the implementation costs. For this reason, mayors, governors, and local officials have bemoaned the problem of unfunded mandates. They simply put an unwanted financial burden of states and local communities. **Unfunded mandates** are federal laws that require states to meet certain regulatory standards, but provide no money to help the states comply. Congress enacted a law in 1995 to curtail the practice. (page 75) New York spent \$1.3 billion to make its subways accessible to the disabled, without federal assistance.

3. In the mid-1980s, President Reagan put forward his view of a "new federalism," which amounted to cutting taxes, saying money was not available for many social programs, then cutting funding and forcing the states to pick up more of the costs. "**Reagan's Revolution,**" or his "**new federalism**" was a concept to restore to state governments the responsibility for making and implementing policies.

4. The pressure for a strong national role seems to be predicated on the fact that we have national goals being set that may or may not be equally popular in every state and locality.

5. The Unfunded Mandates Reform Act became law in 1995. It requires Congress to fund mandates placed on the states unless a majority of the House and Senate voted not to do so. The law only applies to new legislation.

IX. The Historical Basis of Federalism

- A. The Philadelphia Convention created a federal system with sharing of powers between federal and state governments (a middle ground).
- B. The new Constitution followed the much weaker Articles of Confederation in a country with little sense of national identity.
- C. To replace the old system, the alternatives needed examination.
 - 1. Unitary form never would have "sold" in the states because it was too much like the British system that they revolted against.
 - 2. Regional diversity also would have made a strong central control system like the unitary one unlikely.
 - 3. The supporters of federalism at the convention could argue that distributing powers between states and the central government would assure that the latter would not become too powerful.

X. A Tool for Nation Building

- A. Dilemmas of European colonial states in Asia and Africa after World War II
 - 1. Create a strong central government and be dictated to (as under the colonial system)
 - 2. Unite in some federal form, permitting a semblance of self-governance
- B. In the United States, federalism gave the disparate population a chance to join together without losing much, and still provided a basis for a sense of national identity.

XI. The Constitutional Basis of Federalism

- A. The Constitution established a framework for the American federal system.
 - 1. Federal powers, exercised by three branches, were enumerated or listed in Article I. **Enumerated powers** are powers that are granted specifically to the three branches of the federal government under the Constitution. Synonymous with **delegated powers** and **expressed powers**. (page 77)
 - 2. The "necessary and proper" clause (often called the "elastic clause") at the end of Article I and court interpretations of its meaning buttress the idea that the national government, through the Congress, has implied powers.
 - 3. The Supreme Court has also held (*United States v. Curtiss-Wright Export Corp.*, 1936) that the federal government has some "inherent" powers that go along with being a government (Example: foreign policy direction).

4. The Supreme Court, as arbiter between the federal system and the states, has fluctuated between states' rights and expanded federal power.

B. McCulloch v. Maryland

1. An important 1819 Supreme Court case in which Chief Justice John Marshall's ruling established the key concepts of implied powers, broad construction of the Constitution, and national supremacy. (p. 79) The principle of the supremacy of federal law over state law is traceable to *McCulloch v. Maryland*.

2. Ruling by Marshall in this case supports "necessary and proper" implied powers concept. "Necessary and proper" is synonymous with "elastic clause" and "loose and flexible construction."

2. At issue: Can Congress create a bank? At stake: How large and creative a role could the federal government adopt anchored by the "necessary and proper, clause?"

3. Another issue in the case was whether the state of Maryland could authorize taxes against a federal institution. The Court rules that "the power to tax involves the power to destroy." Consequently, the national government can establish a national bank, even though the constitution does not say it can. It is implied.

4. The Court additionally held that the national government, which is supreme to the states when it is acting within its sphere of action, has certain implied powers that go beyond its enumerated, delegated, or expressed powers. State laws preempt national laws when the national government clearly exceeds its constitutional powers and intrudes upon the power of the state.

C. The Division of Federal and State Power

1. The Tenth Amendment seems to limit Congress to items listed in the document, since it said the powers not delegated by the Constitution to the federal government nor prohibited are reserved to the states and people respectively. In simple terms, states have certain powers that the national government cannot encroach upon.

2. In *McCulloch*, the Court supported the idea that powers need not be "expressly" stated to be acceptable under the document. Marshall took a very expansive view of the federal role, at the expense of the states.

3. Marshall's successor, Justice Taney, leaned in a states' rights direction. For almost 100 years, subsequent courts agreed.

4. Today's states' rights advocates depend on the language of the Tenth Amendment for support.

a. They view the Constitution as a compact among states.

b. Today, however, the national government is often viewed as representing the people, not just the states.

D. Restrictions on the States

1. The "supremacy clause" of the Constitution: laws and treaties are the supreme law of the land, binding the states to these priorities.
2. Among many other limits, states are forbidden to coin money, or pass bills of attainder or ex post facto laws.
3. The Bill of Rights and the Fourteenth and Fifteenth Amendments restrict states in denying rights to former slaves.
4. Local governments are technically an arm of the state, so state limits apply to them as well.

E. Federal Obligations to the States

1. **** **Constitution guarantees to the states, a representative democracy in the states, i.e., a republican form of government.**
2. Protect the states from invasion or domestic violence
3. Congress is to handle the arrangements for admitting new states:
 - a. Passing enabling legislation to admit new states. An **enabling act** is a congressional act that allows the people of a territory desiring statehood to frame a state constitution. (page 82)
 - b. Permitting them to write a state constitution.

F. Interstate Obligations and Rights (under Article IV)

1. Full faith and credit: States are expected to give recognition to the civil decisions of other states, including laws, documentary records, and court decisions. **Full faith and credit** refers to a clause in Article IV of the Constitution which requires that each state respect the public acts, records, laws, records and court decisions of another state. In practice, this means that a judgment obtained in a state court in a civil (non-criminal) case must be recognized by the courts of another state. (page 82)
 - a. Normally means civil judgments made in a court in one state are expected to be recognized in another.
 - b. Marriage licenses may be a problem where divorce decrees are issued (*Williams v. North Carolina*).
2. Privileges and Immunities: Citizens of each state are entitled to the privileges and immunities of citizens of the state they are currently in.
 - a. According to the Supreme Court, this rather nebulous requirement means that one

state cannot discriminate against citizens of another state.

b. States still discriminate (Example: In-state and out-of-state tuition for college students).

3. **Extradition** and Rendition: Upon request, a governor in one state can hold a person accused of a crime in another state, pending the person's being returned to the original state for disposition of the case against him/her. **Extradition is a constitutional provision which allows a state to request another state to return fugitives. It requires that states must return a person charged with a crime in another state to that state for trial or imprisonment. (page 82)**

a. Governors have sometimes refused to extradite.

b. Chapter 3 has Scottsboro case example.

c. Custodial decisions and violations of court orders involving parents kidnapping their children have been a problem for this principle.

4. **Interstate compacts**: Formal agreements, largely in the form of financial arrangements, which are entered into between states, only with the approval of Congress. Interstate compacts may include the creation of a new multistate administration, (page 83)

a. One example: The New York Port Authority (operated airports, bridges, tunnels and bus stations between New York and New Jersey)

b. Interstate compacts are becoming a useful tool for planning and cooperative development in bi-state metropolitan areas.

XII. The Growth of Strong National Government

A. The words in the Constitution concerning the relationship between the federal government and states have not changed since 1787.

B. Senator Dirksen commented that soon, Rand McNally will soon be the only one interested in state boundaries, implying that national government is dominant.

C. Why the rise of big government?

1. A large, growing society with complex needs has spurred the growth of the national government.

2. The taxing power of the federal government and public pressures for general welfare programs have mushroomed.

3. Federal powers under the commerce clause have grown in recent decades, especially in the 1960s under LBJ's Great Society, and in the 1930s under FDR's New Deal.

4. Opposition from conservatives who opposed big government handouts during these years was unable to roll back the momentum that large government had. For example, programs

like Social Security and Medicare were not put on the chopping block.

D. **** **"The Reagan Revolution" ["New Federalism"]**

1. Concept was to restore to state governments the responsibility for making and implementing policies. It is additionally a term popularly used to describe the broad spending cuts in social welfare programs instituted by the Reagan administration, beginning in 1981. (p. 84)

2. Cut domestic spending in poverty programs like social welfare, food stamps, and housing subsidies for low-income people. The upshot: the poor got poorer.

3. In most cases, they were reductions in what might have been spent, so actual dollars increased in the programs.

4. Still, if the national government was doing less than it planned, states and localities would be asked to pick up the slack.

5. It is unlikely that the role for the federal government for these programs will diminish much because the public likes national leadership in these areas. Cuts are likely to be marginal at most.

E. Big Government and Foreign Policy

1. The nuclear age and defense needs related to it have ballooned the federal role and spending in these areas.

2. With the end of the Cold War, President Bush was pressured for major defense cuts. Supporters of social services were seeking the elusive "peace dividend," which never appeared. **"Peace dividend"** refers to funds allocated to national defense that might be spent on domestic needs because of the end of the Cold War. (p. 86)

3. Cuts in defense meant lost jobs or wage cuts for the states and citizens wedded to the defense industries.

XIII. The Impact of Federalism on Government and Politics

A. The federal system influences the actions of all levels of government - even many private associations. **The efforts of Mothers Against Drunk Driving (MADD) to raise the legal drinking age, and lower the blood-alcohol level, is an example of the national government to influence state policy.**

B. Federalism affects the structural makeup of governance.

1. Senators, though federal officials, come from states. Each state gets an equal number of senators, despite its size.

2. House members, though federal officials, are chosen in local districts. Sitting together, they represent the views of their state on national policy issues.

3. Federalism helps assure that the state and local court systems coincide with the federal system.
4. Federalism encourages **senatorial courtesy**. **Senatorial courtesy** is a policy that gives senators the right to be notified by the chief executive of pending political nominations, usually judicial. Once informed, the approval of the senators from the state from which the judge comes is obtained and the appointment process moves on. This courtesy does not apply to Supreme Court justice nominations. (p. 86)
5. The AFL-CIO, AMA, and ABA demonstrate that large interest groups also organize along federal lines.

C. Federalism and American Politics

1. Presidential candidates like Dole and Clinton are not appointed by the national party, but must gain their support in statewide presidential primaries during early spring of election year.
2. Parties themselves are organized along quasi-federal lines, i.e., a national party and fifty state parties.
3. State parties are autonomous. Some are better organized than others and provide good governmental officials, while the candidate output of others and their performance records may be lackluster.

D. Policy Outcomes in the States

1. States with large, two-party elections are likely to have broad social welfare policies because both parties need the votes of the poor.
2. Other studies suggest that the amount and quality of social programs correlate with the per-capita income of the state. This factor best explains the disparity of taxing, spending, and social services between states.
3. In states with high levels of political activity by lower socioeconomic groups, policies favored redistribution.
4. The federal system influences people's lives because it affects the selection of public officeholders and their penchant for providing social service programs.

E. Federalism Today

1. Although federal aid to the states has increased every year since 1950, it has remained level or has declined slightly over the last few years as a percentage of federal budget outlays. **Federal regulation of state governments is usually accomplished through attaching conditions to grants it gives the states. It is the main instrument the national government uses to influence state governmental policies. Grants in the various categories, may be "project grants," which are awarded on the basis of competitive applications. Example, the**

Spaceport.

2. In 1980 grants to state and local governments accounted for 15 percent of the budget. By 1990 it was 1 percent. In the budget for fiscal year 1997, it was back up to 15 percent.

d. In 1994 the GOP Congress tried to shift more categorical grants into block grants to give state and local communities more flexibility in how to spend the money. In 1996 this type of effort was signed into law by President Clinton as welfare reform.

5. **General purpose grants**

a. **General purpose grants**, the smallest category of federal grants which may be used by states and local communities mostly as they wish. (page 89)

b. General revenue sharing was in this category, but was discontinued.

6. General revenue sharing

a. States and localities could use as they wished.

b. Critics feared it would be used for frivolities like golf courses.

c. Local officials loved it because they saw it as new money for city budgets, with few strings attached.

d. The program was discontinued in 1986.

7. State and local spending has been increasing at an even faster rate than federal.

a. The federal government collects 81 percent of all income taxes, which grow with the economy and generate substantial capital growth.

b. State and local governments depend on real estate taxes and sales taxes, which do not grow as fast as the economy-based income taxes.

c. More states are getting into the income tax business, though. Only seven states do not tax incomes.

XIV. Regulatory Federalism

A. Regulatory laws are passed to address national goals - like providing clean air and water — and similar goals supported by states and localities.

1. Typically these have complex federal standards.

2. These laws also generate a blizzard of paperwork resented by local units.

3. Typically, federal funds are too limited to cover the costs of meeting the requirements. This causes federal/local tensions.

B. These programs got their starts in the 1960s.

1. Civil Rights Act (1964) is an early example, as is the Highway Beautification Act (1965), and the Occupational Safety and Health Act (1970).

2. Other programs deal with endangered species, clean water and air, education, employment, the disabled, and age discrimination.

C. Some of them bar actions by state and local governments, such as discrimination in hiring.

D. Others tie behavior in one law to a reward or penalty in another.

1. These are referred to as crossovers.

2. For example, the fifty-five-mile-per-hour speed limit law was tied to federal highway funds.

3. Another example: federal highways were withheld from states with laws allowing those under 21 years of age to drink alcohol.

E. Other regulations set federal standards and have the states enforce them, such as the Clean Air Act of 1970 and its newer version in 1990.

F. States and local governments complain about unfunded mandates (requirements that they enforce federal standards without the federal funds to do so).

G. A 1995 federal law says no unfunded mandates in the future unless a majority of Congress agrees to them.

XV. The Future of Federalism

A. The relationship between Washington, the state houses, and city halls has evolved over the years. Both conflict and cooperation remains.

B. Innovations are evident.

1. Minnesota adopted a system of school aid to ensure equal education funds for students, regardless of the poverty of their district, thereby ushering in a new state-to-local relationship in education.

2. By 1994, thirty-five states and the District of Columbia had circuit breaker property tax relief for fixed income elderly and low-income citizens.

3. More efforts are being made to deal with area wide metropolitan problems.

C. Critics of federal aid to states question whether states are willing or able to meet their responsibilities.

D. Many states are still caught in a fiscal squeeze, and may find innovation difficult. Cities with more poor inner-city residents are finding that demands for more services are beyond their fiscal capacities.

E. Key question: Can the federal system designed in 1787 continue to meet the demands of the

urban, technological society it faces in the twenty-first century?



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