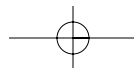
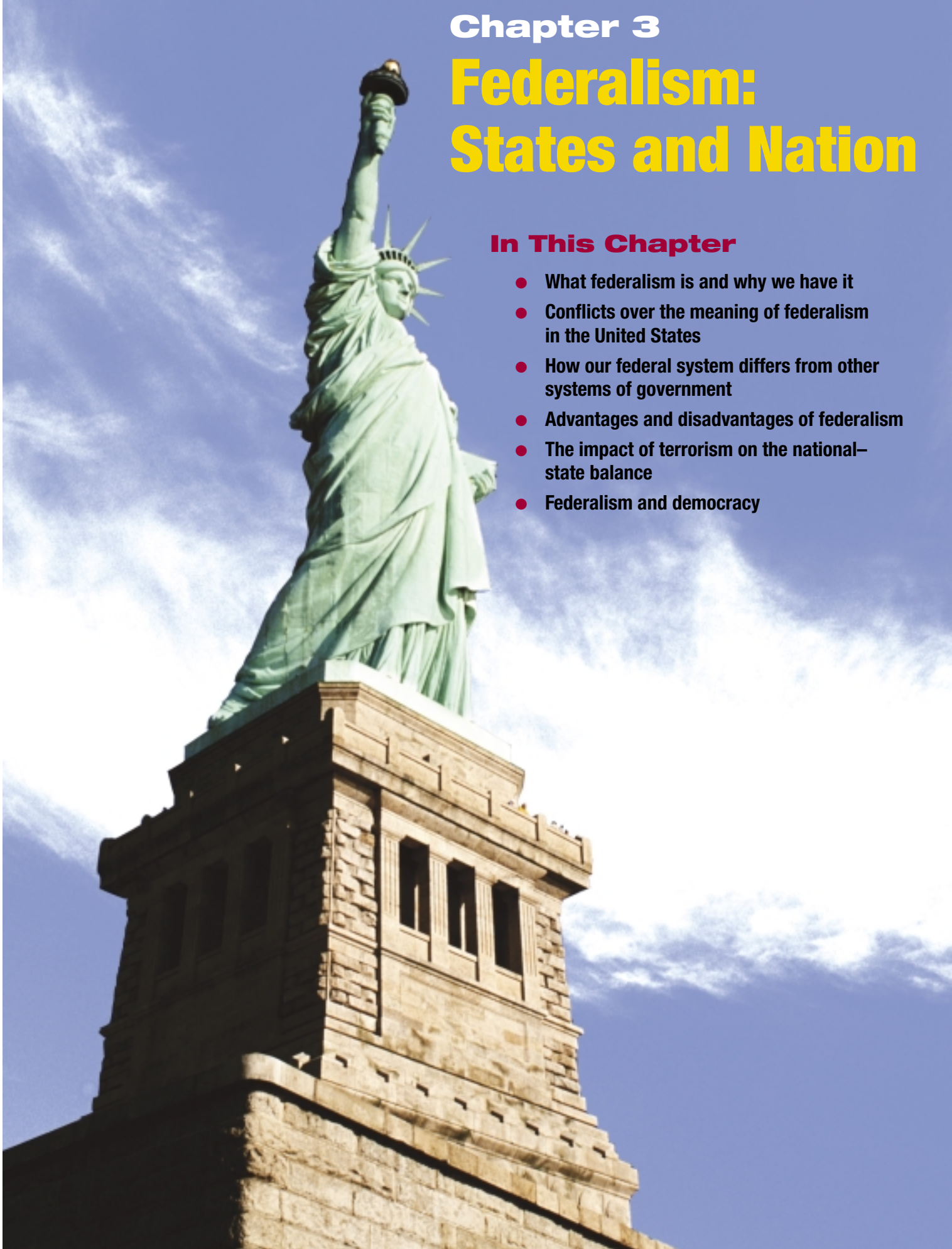


Chapter 3

Federalism: States and Nation

In This Chapter

- What federalism is and why we have it
- Conflicts over the meaning of federalism in the United States
- How our federal system differs from other systems of government
- Advantages and disadvantages of federalism
- The impact of terrorism on the national–state balance
- Federalism and democracy



Welfare Reform and the States

Bill Clinton and many Republican and Democratic members of Congress promised to “end welfare as we know it.” Long before Congress and the president could agree on a specific plan, however, many state governments—with special permission from Washington—took the lead in trying out their own welfare reforms. This interplay between national and state governments illustrates the dispersion of power in our federal system.

Under the Social Security Act of 1935, the U.S. government established Aid to Families with Dependent Children (AFDC) as an entitlement program for children in poor families. The states administered the program, offering different levels of benefits from one state to another. But the national government, which provided most of the money, also made the rules about who was eligible, for how long, and under what circumstances. It guaranteed that any eligible family in the country would be entitled to benefits.

That pattern of national rule-setting began to change around the beginning of the 1990s. New, mostly Republican state governors and legislatures were elected, promising to reform welfare by encouraging work and parental responsibility. Pioneers such as Republican Governor Tommy G. Thompson of Wisconsin, who took office in 1987, came up with many different ideas: requiring efforts to find work; putting time limits on benefits; easing benefit reductions when recipients earned some money working; helping with training, day care, job placement, and community service jobs; requiring young mothers to live with their parents or other adults; paying bonuses for staying in school; and restricting payments for children born to mothers already on welfare.

The Bush administration and especially the Clinton administration granted many “waivers,” exceptions to the national rules, so that states could experiment with these ideas. By 1995, 32 states had waivers, affecting about half the nation’s 14 million welfare recipients. More than 30 states let recipients earn more and keep assets without losing benefits, 25 states required teenage mothers to live with adults; and more than 20 got waivers to require that welfare recipients find work or to help them do so.



Some of the results were impressive. In Wisconsin, for example, after Thompson took office and persuaded Washington to give him 179 waivers, the welfare rolls dropped by 27 percent and spending was cut by \$210 million per year. The money that was poured into child care and job training seemed to pay off, saving about \$2 in welfare costs for each \$1 spent. Michigan, under Republican Governor John Engler, cut caseloads to the lowest point in 21 years, led the nation by steering 30 percent of its 190,000 welfare recipients into work, and saved about \$100 million a year.¹

Finally, in 1996, the president and Congress passed the Personal Responsibility and Work Opportunity Act, which made public welfare a state responsibility with federal financial support. The new law ended welfare as an entitlement program, limited recipients to no more than five years of benefits, and imposed work and work-training requirements. Within these general guidelines, states are allowed wide latitude in creating their own welfare programs. Some states remain more generous than others. California, for example, allows recipients to stay on the rolls for five years, provides some benefits for children (using state, not federal, funds) beyond the five-year limit, and only weakly sanctions (with loss of some benefits) individuals who refuse to work or train for work. Florida, by contrast, limits adult recipients to four years, is less generous to children

beyond the five-year limit, and cuts off aid to the entire family if the adult fails to comply with work requirements.² It remains to be seen what the eventual political and social

fallout will be in the states as more and more people use up their welfare eligibility years, even as jobs are harder to get in times of slow economic growth or recession. ■

Thinking Critically About This Chapter

The mixture of state and national action on this issue, and the state experimentation that affected policymaking in the nation as a whole, is characteristic of American federalism. So, too, is the conflict between national standards and local flexibility.

Using the Framework In this chapter, you will learn how and why federalism is one of the most important structural factors that affect American politics and government and shape public policy. You will learn how federalism influences our entire system: from the kinds of political parties we have and the workings of Congress to how domestic programs are affected. You will also learn how federalism itself has changed over time.

Using the Democracy Standard Using the evaluative tools you learned in Chapter 1, you will be able to judge for yourself whether federalism enriches or diminishes democracy in the United States. ◀

Federalism as a System of Government

The United States is full of governments. We have not only a federal government in Washington, D.C. (which, to avoid confusion, we will refer to in this chapter as the *national* or *central* government), but also governments in each of 50 states and in each of thousands of smaller governmental units, such as counties (about 3,000 of them), cities, towns and townships, school districts, and special districts that deal with such matters as parks and sanitation.

All these governments are organized and related to each other in a particular way. The small governments—those of counties, cities, towns, and special districts—are legal creations of state governments. They can be created, changed, or abolished by state laws, at the state’s convenience. But state governments themselves have much more weight and permanence because of their prominent place in the Constitution. Together with the national government in Washington, D.C., they form what is known as a federal system. The *federal system* is part of the basic structure of U.S. government, deeply rooted in our Constitution and history. It is one of the most important features of American politics, since it affects practically everything else.

federalism

A system in which significant governmental powers are divided between a central government and smaller units, such as states.

confederation

A loose association of states or territorial divisions in which very little power is lodged in the central government.

The Nature of Federalism

Federalism is a system under which significant government powers are divided between the central government and smaller units, such as states. Neither one completely controls the other; each has some room for independent action. A federal system can be contrasted with two other types of government: a confederation and a unitary government. In a **confederation**, the constituent states get together for certain common purposes but retain ultimate

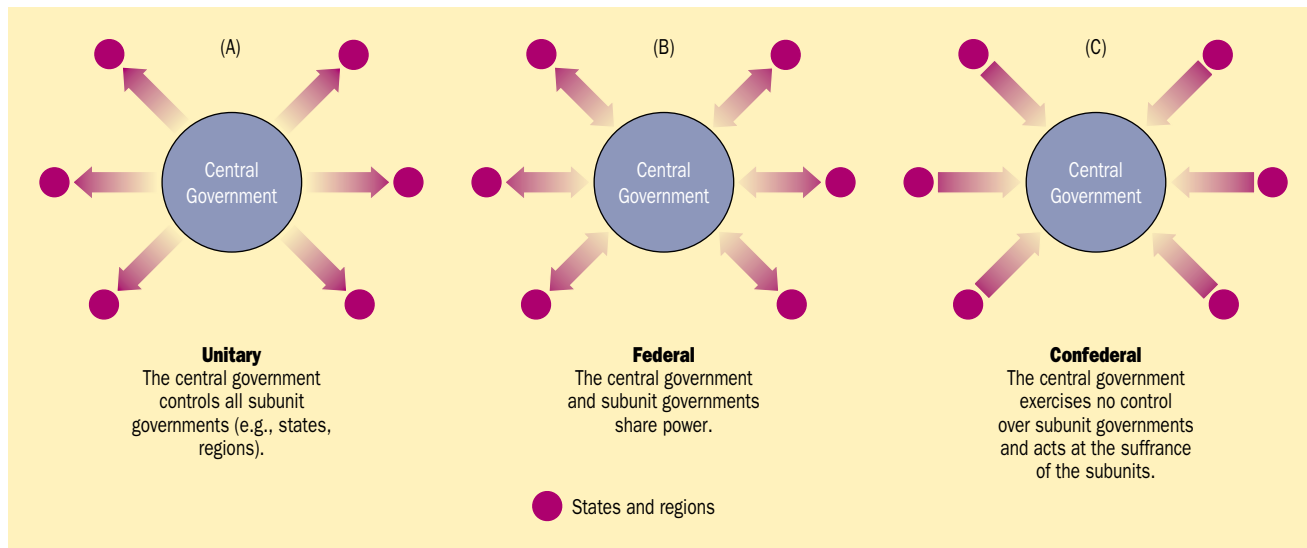


FIGURE 3.1 Types of Political Systems

A majority of countries have unitary systems (A), in which the central government controls the state and local governments, which in turn exert power over the citizens. The United States, however, has a federal system (B), in which the central government has power on some issues, while the states have power on others. In a confederation (C), the central institutions have only a loose coordinating role, with real governing power residing in the constituent states or units.

individual authority and can veto major central governmental actions. The United Nations, the European Union, and the American government under the Articles of Confederation are examples. In a **unitary system**, the central government has all the power and can change its constituent units or tell them what to do. Japan and France have this kind of government. These three different types of governmental systems are contrasted in Figure 3.1.

unitary system

A system in which a central government has complete power over its constituent units or states.

The Roots of Federalism

Some of the elements of federalism go back in history at least as far as the Union of Utrecht in the Netherlands in 1579, but federalism as it exists today is largely an American invention.³

Historical Origins American federalism emerged from the particular way in which the states declared independence from Britain—becoming, in effect, separate countries—and then joined together to form a confederation and then a single nation, as discussed in Chapter 2. Recall that the framers of the Constitution turned to federalism as a middle-ground solution between a confederation form of government—which was deemed a failed model based on the experience of the United States under the Articles of Confederation—and a unitary form of government, which a majority of states, jealous of their independence and prerogatives, found unacceptable. But we can gain further insight into *why* the United States adopted and has continued as a federal system if we look at what other countries with similar systems have in common.

Role of Size and Diversity Most federal systems around the world are found in countries that are geographically large and have regions that differ from one another in various important ways: economic activity, religion, ethnicity, and

Federations are not necessarily forever. The Yugoslav federation of republics, in which each republic was formed primarily on the basis of nationality, could not withstand the dramatic rise in ethnic tensions after the death of Yugoslav leader Marshall Tito. Here ethnic Serb soldiers and militia escort an elderly Croat from his basement shelter during the battle for Vukovar in 1991.



language. In Germany, for example, the conservative Catholics of the south have traditionally been different from the liberal Protestants of the north and east. In Canada, the farmers of the central plains are not much like the fishers of Nova Scotia, and the French-speaking (and primarily Catholic) residents of Quebec differ markedly from the mostly English-speaking Protestants of the rest of the country. Such diverse groups often want the local independence that federalism allows, rather than submitting to a unified central government.

The United States, too, is large and diverse. From the early days of the Republic, the slave-holding and agriculture-oriented South was quite distinct



Web Exploration **Regional Variation and Federalism**

Issue: Federalism seems most appropriate where there is substantial variation among regions of a nation.

Site: You can examine how much variation exists in the United States by going to the *Statistical Abstracts of the United States* on our Website at www.ablongman.com/greenberg. In the “Web Explorations” section for Chapter 3, open “Regional Variation and Federalism,” then open “states.” Select “state rankings.” Compare your own state with three or four others from different geographical regions of the United States on issues such as education, income, population growth, immigration, crime, and the like.

What You’ve Learned: Given the profile of your state compared with others, are the differences great enough to support the need for greater autonomy for your state government, or would national rule making and policies make more sense?

HINT: If the differences are significant, from your point of view, federalism would make a lot of sense. Religious differences seem especially important to many people.

from the merchant Northeast, and some important differences persist today. Illinois is not Louisiana; the farmers of Iowa differ from defense and electronics workers in California. States today also vary from one another in their approaches to public policy, their racial and ethnic composition, and their political cultures.⁴ In *The Federalist Papers*, the Founders argued that this size and diversity made federalism especially appropriate for the new United States.

Federalism in the Constitution

Federalism is embodied in the U.S. Constitution in two main ways: (1) power is expressly given to the states, as well as to the national government, and (2) the states have important roles in shaping, and choosing officials for, the national government itself.

Independent State Powers

Although the Constitution makes the central government supreme in certain matters, it also makes clear that the state governments have independent powers. The **supremacy clause** in Article VI states that the Constitution, laws, and treaties of the United States shall be the “supreme law of the land,” but Article I, Section 8, enumerates what kinds of laws Congress has the power to pass, and the Tenth Amendment declares that the powers not delegated to the central government by the Constitution or prohibited by the Constitution to the states are “*reserved to the states* [emphasis added] respectively, or to the people.” This provision is known as the **reservation clause**.

In other words, the U.S. Constitution specifically lists what the national government can do. Its powers include authority to levy taxes, regulate interstate commerce, establish post offices, and declare war, plus make laws “necessary and proper” for carrying out those powers. The Constitution then provides that all other legitimate government functions may be performed by the states, except for a few things, such as coining money or conducting foreign policy, that are forbidden by Article I, Section 10. The reservation clause is unique to the United States. Other federal systems, such as Canada’s and Germany’s, reserve to the national government all functions not explicitly given to the states. The Constitution is, thus, not crystal clear on the balance of powers and responsibilities between the state and national governments, leaving ample room for the meaning of federalism to change with the times.

The States’ Roles in National Government

Moreover, the Constitution’s provisions about the formation of the national government recognize a special position for the states. The Constitution declares in Article VII that it was “done in Convention by the unanimous consent of the *states* present” (emphasis added) and provides that the Constitution would go into effect not when a majority of all Americans voted for it but when the conventions of nine *states* ratified it. Article V provides that the Constitution can be amended only when conventions in or the legislatures of three-quarters of the states ratify an amendment. Article IV, Section 3, makes clear that no states can be combined or divided into new states without the consent of the state legislatures concerned. Thus, the state governments have charge of ratifying and amending the Constitution, and the states control their own boundaries.

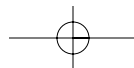
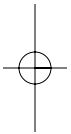
The Constitution also provides special roles for the states in the selection of national government officials. The states decide who can vote for members of

supremacy clause

The provision in Article VI of the Constitution that the Constitution itself and the laws and treaties of the United States are the supreme law of the land, taking precedence over state laws and constitutions.

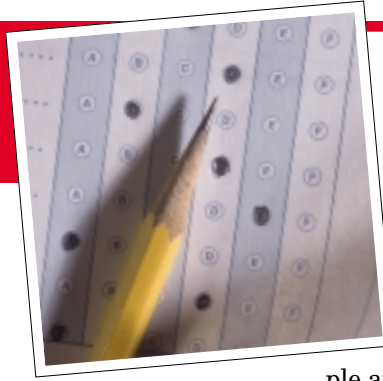
reservation clause

The Tenth Amendment to the Constitution, reserving powers to the states or the people.



By the Numbers

How do we know how many people there are in each of the states?



Utah officials were angry. Convinced that the counting method used for the 2000 census had undercounted the number of people residing in the state, thereby “robbing” them of a congressional seat, they sued the U.S. Census Bureau.

How can something as simple as counting people become so controversial? And why are these census figures so important to states, anyway?

Why It Matters. The Constitution specifies that every ten years, a census will be taken of the population of the United States. One purpose of the census is to determine how the finite number of seats in the House of Representatives (435) will be divided among the states, based on the size of their populations. A state’s population also determines how much federal money (for example, highway money) it will get. Moreover, counts of certain categories of people, like the poor, determine how much aid (for example, Medicaid) the state will receive.

The Story Behind the Number. For most of our nation’s history, the Census Bureau hired people to go door-to-door all across the United States—from isolated farms to packed apartment buildings—to conduct a direct count of the population. Many people were missed in this process. Some were not home when the census takers came by; others lived in high crime neighborhoods where census takers did not want to venture; and some had no home other than a crude shelter under a highway overpass. Recent immigrants had trouble communicating in

English, and illegal aliens did not necessarily want to be found by census takers.

Indeed, the undercounted population in every recent census has been comprised mainly of racial minorities, recent immigrants, the homeless, and the undocumented. This pattern has generated complaints from a wide range of people and organizations: advocates of the poor who want more federal government monies directed to the problem of poverty in each state; civil rights organizations that believe that racial minorities are under-represented in the House of Representatives; and Democratic Party politicians who believe that a more accurate count would benefit their party (the assumption being that lower income people, racial minorities, and recent immigrants tend to vote for Democrats).

In an attempt to remedy these undercount problems, the Census Bureau wanted to use “statistical sampling” of the population to fill in the gaps. However, the Supreme Court ruled in 1999 that the Bureau could not do so for purposes of reapportioning congressional seats, and President Bush announced that sampling could not be used to determine how much federal money the states would get. As an alternative, the Bureau has increasingly relied on a statistical procedure called “imputing.”

Calculating Population Size and Characteristics.

Though Census Bureau statisticians have been using “imputing” in limited ways since the 1940s to fill in the gaps left by the inevitable undercounting, they relied much more on it for the 2000 census. In imputing, estimates are made about the characteristics of people living in a household where the Bureau has been unable to collect information. The estimates are based on what their neighbors are like (whether they are poor or rich, white or African-American, and so on).

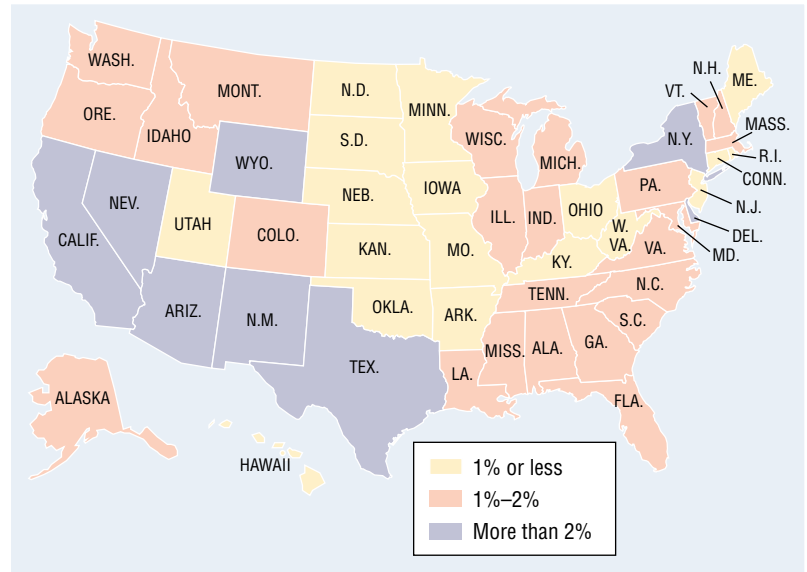
the U.S. House of Representatives (Article I, Section 2). Each state is given two senators (Article V) who were, until 1913, to be chosen by the state legislatures rather than by the voters (Article I, Section 3; altered by the Seventeenth Amendment). And the states play a key part in the complicated electoral college system of choosing a president in which each state has votes equal to the number of its senators and representatives combined, with the president elected by a majority of *electoral* votes, not a majority of popular votes (Article II, Section 1). (See “By the Numbers: How Do We Know How Many People There Are in Each of the States?” to learn how state populations are deter-

In the 2000 census, using imputing, almost 6 million people who had not actually been counted were included in the nation's population total. In some states, most notably in those with large numbers of racial minorities and immigrants (including California, Arizona, New Mexico, and Texas), more than 3 percent of the state's total population was imputed.

This brings us back to the state of Utah. Utah's suit claimed that the Census Bureau had illegally imputed tens of thousands of additional people to the state of North Carolina, resulting in North Carolina receiving the congressional seat that properly should have gone to Utah. Unfortunately for Utah, the Supreme Court approved imputing in 2002.

Imputing Criticized. Though most statisticians believe that imputing is a reasonable way to solve the problem of undercounting, the technique has its critics:

- The Utah suit claimed, and others agree, that imputing—much like more standard sampling—makes statistical inferences about parts of the population rather than counting people directly, as implied by the wording in the Constitution (Article I, Section 2).
- Imputing assumes that neighborhoods are homogenous; it is based on the assumption that a household's characteristics can be estimated from the characteristics of its neighbors. Members of several minority groups who tend to live in less segregated circumstances—Asians and Pacific Islanders, for example—may find themselves undercounted.



Percentage of People Imputed by the U.S. Census Bureau in Its Population Totals, by State

Source: *The Wall Street Journal*, October 9, 2001.

What to Watch For. Official statistics are often published in both “adjusted” and “unadjusted” forms. “Adjusted” means that the raw information has been corrected in one way or another. Usually, the reasons for doing so are very reasonable and defensible. You might want to look at the documentation that is associated with all government statistical information to learn how the numbers have been “adjusted.”

What Do You Think? In your view, does it make sense to depend on the census on methods of enumerating that were fashioned by the framers of the Constitution? Is there a reason to keep to traditional methods? Or does the greater accuracy introduced by advances in statistical computing—either imputing or sampling—argue for a different method for conducting the census?

mined, population being the basis for apportioning seats in the House of Representatives, electoral votes, and federal monies to the states.)

Relations Among the States

Article IV of the Constitution includes a few provisions that regulate relations among the states (see Table 3.1). For example, each state is required to give “full faith and credit” to the public acts, records, and judicial proceedings of every other state. This means, among other things, that contracts signed by

TABLE 3.1 Constitutional Underpinnings of Federalism

Provisions	Where to Find Them in the Constitution	What They Mean
Supremacy of the national government in its own sphere	Supremacy clause: Article VI	The supremacy clause establishes that federal laws take precedence over state laws.
Limitations on national government powers and reservation of powers to the states	Enumerated national powers: Article I, Section 8; Limits on national powers: Article I, Section 9; Article IV, Section 3; Eleventh Amendment Bill of Rights: First through Tenth Amendments Reservation clause: Tenth Amendment	The powers of the federal government are laid out specifically in the Constitution, as are strict limitations on the power of the federal government. Powers not specifically spelled out are reserved to the states or the people.
Limitations on state powers	Original restrictions: Article I, Section 10 Civil War Amendments: Thirteenth through Fifteenth Amendments	The Constitution places strict limitations on the power of the states in particular areas.
State role in national government	Ratification of Constitution: Article VII Amendment of Constitution: Article V Election of representatives: Article I, Section 2 and Section 4 Two senators from each state: Article I, Section 3 No deprivation of state suffrage in Senate: Article V Choice of senators: Article I, Section 3 (however, see Seventeenth Amendment) Election of president: Article II, Section 1 (however, see Twelfth Amendment)	The states' role in national affairs is clearly laid out. Rules for voting and electing representatives, senators, and the president are defined so that state governments play a part.
Regulation of relations among states	Full faith and credit: Article IV, Section 1 Privileges and immunities: Article IV, Section 2	Constitutional rules ensure that the states must respect each other's legal actions

The states play a central role in the election of the president who is selected for office not by popular vote but by the electoral college vote, assembled on a state-by-state basis. In the end, the disputed 2000 presidential election outcome depended on which candidate would win Florida's 25 electoral votes. Here election officials conduct a hand recount of ballots in Palm Beach County.



individuals or companies in one state must be honored by officials in other states and that decisions by the courts of one state must be recognized by the others. Under Article IV, moreover, the citizens of each state are entitled to all the “privileges and immunities” of the citizens in the several states. That means that whatever citizenship rights a person has in one state apply in the other states as well.

The Evolution of American Federalism

It took a long time after the adoption of the Constitution for the present federal system to emerge. There were ebbs and flows in the relative power of the states and the federal government. Eventually, however, the national government gained ground. There are many reasons why this happened.

- Economic crises and problems generated pressures on the government in Washington to do something to help fix the national economy. The Great Depression in the 1930s is the primary example, but even today, we expect the president, Congress, and the Federal Reserve to competently manage national economic affairs, something the states cannot do for themselves.
- War and the preparation for war are also important spurs to national-level actions, rather than state-level ones, for it is only the government in Washington that can raise an army and a navy, generate sufficient revenues to pay for military campaigns, and coordinate the productive resources of the nation to make sustained war possible. It is no accident, then, that each of our major wars has served to enhance the power of government in Washington: the Civil War, World Wars I and II, the Korean War, the Vietnam War, and the new war on terrorism.
- Finally, a number of problems emerged over the course of our history that most political leaders and the public believed could be solved most efficiently by the national government rather than by 50 separate state governments: air and water pollution; unsafe food, drugs and consumer products; the denial of civil rights for racial minorities; anti-competitive practices by some large corporations; poverty; and more.

The Perpetual Debate About the Nature of American Federalism

From the very beginnings of our nation, two political philosophies have contended with one another over the nature of American federalism and the role to be played by the national government. These are generally referred to as the nationalist position and the states’ rights position.

The Nationalist Position Nationalists believe that the Constitution was formed by a compact among the people to create a single national community, pointing to the powerful phrase that opens the preamble: “We the People of the United States” (not “We the States”). Nationalists also point to the clear expression in the preamble of the purposes for which “we the people” formed a new government, namely to “create a more perfect union . . . and to promote the General Welfare.” Also important in the nationalist brief are provisions in the Constitution that point toward a strong central government with expansive

nationalist position

The view of American federalism which holds that the Constitution created a system in which the national government is supreme, relative to the states, and that granted to it a broad range of powers and responsibilities.

How to control illegal immigration across the U.S.—Mexican border, and what to do about those who make it across, have become contentious issues between several states and the federal government.



necessary and proper clause

Article I, Section 8, of the Constitution, also known as the *elastic clause*, gives Congress the authority to make whatever laws are necessary and proper to carry out its enumerated responsibilities.

states' rights position

The view of American federalism which holds that the Constitution created a system of dual sovereignty in which the national government and the state governments were sovereign in their own spheres.

dual federalism

Federalism in which the powers of the states and the national government are neatly separated like the sections of a layer cake.

responsibilities, namely, the “supremacy clause” in Article VI and the “elastic” or “**necessary and proper**” clause in Article I, Section 8. Not surprisingly, proponents of the nationalist position have advocated an active national government with the capacity and the will to tackle whatever problems might emerge to threaten the peace and prosperity of the United States or the general welfare of its people. Alexander Hamilton, Chief Justice John Marshall, Abraham Lincoln, Woodrow Wilson, the two Roosevelts, and most modern liberals are generally associated with the nationalist position.

The States' Rights Position Proponents of the states' rights position argue that the Constitution was created as a compact among the states and that the framers meant for the states to be coequal with the national government. They base their argument on a number of foundations. They note, for instance, that the Constitution was written by representatives of the states, that it was ratified by the states and not by a vote of the public, and that the process for amending the Constitution requires the affirmative votes of three-fourths of the states, not three-fourths of the people. They also point out that the Constitution mandates equal representation of states in the Senate and requires that the president be elected by the electoral votes of the states. States' rights proponents say that the prominent role of the states in our system of government is also indicated in Article IV, Section 3 (which says that states are inviolate), and in the Tenth Amendment (the “reservation” clause, discussed above).

Not surprisingly, proponents of the states' rights position have argued that the Constitution created a form of government in which the national government is strictly limited in size and responsibility and in which states retain broad autonomy in the conduct of their own affairs. Popular among states' rights proponents is the concept of **dual federalism** which suggests that there are distinct, non-overlapping areas of responsibility for the national government and the state governments, and that each level of government is sovereign in its own sphere. Thomas Jefferson, John C. Calhoun, the New England and Southern secessionists, the southern resisters to the civil rights revolution, and many contemporary conservatives are associated with this view of federalism.

We shall see in the pages ahead that the nationalist view has prevailed over the long haul of American history (see Figure 3.2). However, the states' rights view has always been and remains today a vital position from which to oppose too much power and responsibility in the government in Washington.

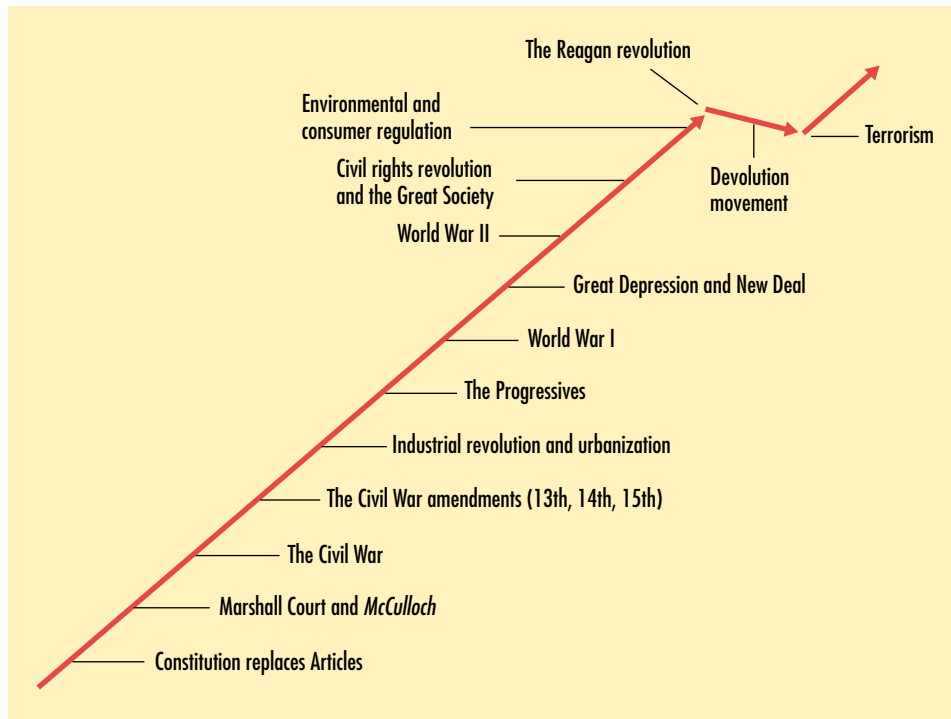


FIGURE 3.2 Landmarks on the Road of Rising Federal Power and Responsibilities

Over the course of American history, power and responsibilities in our federal system have flowed to the national government. The trend towards devolution that started in the late 1970s and 1980s may well be reversed by the events of September 11, 2001, and the subsequent war on terrorism.

Federalism Before the Civil War

In the late 1790s, during the administration of John Adams, Thomas Jefferson's Republicans deeply resented the Alien and Sedition Acts, which the Federalists used to punish political dissent by followers of Jefferson. In the response, Jefferson and Madison secretly authored the Virginia and Kentucky Resolutions, which declared that the states did not have to obey unconstitutional national laws and left it to the states to decide what was unconstitutional. In this case, the Republicans, representing the more agricultural South, were advocating states' rights against a national government run by the more merchant-oriented Federalists of the Northeast. About a decade later, however, the merchants of New England used the southerners' own arguments to oppose President Madison's War of 1812 against Britain, which they felt interfered with their trade. Neither of these efforts at **nullification** prevailed. Nor did the later attempt by John C. Calhoun and other southern agriculturalists to declare null and void the "tariff of abominations," the 1833 national tariff that dramatically raised the prices of imports and hurt southern agricultural exports.

nullification

An attempt by states to declare national laws or actions null and void.

The Marshall Court One crucial question about federalism in the early years of the United States concerned who, if anyone, would enforce the supremacy clause. Who would make sure that the U.S. laws and Constitution were actually the "supreme law of the land," controlling state laws? The answer

turned out to be the U.S. Supreme Court, but this answer emerged only gradually and haltingly as the Court established its power within the federal system.

Only after the strong-willed and subtle John Marshall became chief justice and, in 1803, established the Supreme Court's authority to declare *national* laws unconstitutional did the Supreme Court turn to the question of national power over the states. In *Fletcher v. Peck* (1810), it established the power of judicial review over the states, holding a state law unconstitutional under the U.S. Constitution.⁵ Chief Justice Marshall cleverly avoided explicit discussion of the Court's power of judicial review over state laws. He simply took it for granted and used it.

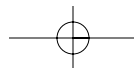
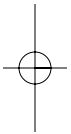
The Supreme Court further solidified its position in 1816 in relation to the states by explicitly upholding as constitutional the Court's use of a "writ of error" to review (and overturn) state court decisions that denied claims made under the Constitution or laws or treaties of the United States. In language important to the interpretation of federalism, Justice Joseph Story declared that the Constitution was the creation of "the people of the United States," not of the individual states, and that the people could—and did—decide to modify state sovereignty.⁶

The Supreme Court also provided crucial legal justification for the expansion of national government power in the important case of *McCulloch v. Maryland* (1819). The *McCulloch* case arose because the state of Maryland had imposed a tax on notes issued by the Bank of the United States, which had been incorporated by Congress in 1816. The U.S. government argued that such a tax on a federal entity was invalid. Maryland replied that the incorporation of the bank had been unconstitutional, exceeding the powers of Congress, and that, in any case, the states could tax whatever they wanted within their own borders. But Chief Justice Marshall upheld the constitutionality of the bank's incorporation and its immunity from taxation, and in the process made a major statement justifying extensive national authority.⁷

In the Court's decision, Marshall declared that the Constitution emanated from the sovereign people. The people had made their national government supreme over all rivals within the sphere of its powers, and those powers must be construed generously if they were to be sufficient for the "various crises" of the age to come. Congress had the power to incorporate the bank under the clause of Article I, Section 8, authorizing Congress to make all laws "necessary and proper" for carrying into execution its named powers. Moreover, Maryland's tax was invalid because "the power to tax involves the power to destroy," which would defeat the national government's supremacy within its sphere. Justice Marshall's broad reading of the *necessary and proper* clause laid the foundation for an expansion of what the national government could do in the years ahead. He made it clear that states would not be allowed to interfere.

The Slavery Issue In the second decade of the nineteenth century, the issue of slavery in the western territories began to dominate disputes about the nature of federalism. As new, nonslave states were settled and sought to join the Union, white southerners feared that their political power in Washington, D.C. (especially in the Senate)—and therefore their ability to protect their own slave system—was slipping away.

The Missouri Compromise of 1820 established an equal number of slave and free states and banned slavery in the territories above a line running westward to the Rockies from Missouri's southern border. But the acquisition of vast new territories in the Southwest through the Mexican War reopened the question of whether new states would be slave or free. The Compromise of 1850 admitted California as a free state and temporarily balanced matters (in



white southerners' eyes) by enacting the Fugitive Slave Act, which compelled private citizens in the North to help return runaway slaves—legislation that many northerners bitterly resented. The 1854 decision to organize Kansas and Nebraska as territories and let them decide for themselves whether to become slave or free states (even though they were above the Missouri Compromise line and therefore supposed to be free) led to violence between pro- and anti-slavery forces in “bleeding Kansas.”

In 1860, the northern and southern wings of the Democratic party split apart over the slavery issue. The old Whig party was destroyed by the issue, and the candidate of the newly formed Republican party, Abraham Lincoln (who opposed slavery in the western territories), was elected president. South Carolina seceded from the Union, soon followed by the other six states of the Deep South, and they all banded together to form the Confederate States of America. When President Lincoln decided to relieve the besieged U.S. garrison at Fort Sumter, South Carolina, the Civil War began.

The Civil War and the Expansion of National Power

The Civil War had profound effects on the relationship between the states and the national government.

Indissoluble Union The complete northern victory and unconditional southern surrender in the Civil War decisively established that the Union was indissoluble; states could not withdraw or secede. Hardly any American now questions the permanence of the Union.

Constitutional Amendments The Civil War also resulted in constitutional changes that subordinated the states to certain new national standards, enforced by the central government. The Thirteenth Amendment abolished slavery, and the Fifteenth gave former male slaves a constitutional right to vote. (This right was enforced by the national government for a short time after the Civil War; it was then widely ignored until the 1965 Voting Rights Act.)

The Fourteenth Amendment (1868) included broad language going well beyond the slave issue: It declared that *no state* shall “deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” The **due process clause** eventually became the vehicle by which the Supreme Court ruled that many civil liberties in the Bill of Rights, which originally protected people only against the national government, also provided protections against the states. And the **equal protection clause** was eventually made the foundation for protecting the rights of blacks, women, and other categories of people against discrimination by state or local governments. (These matters are discussed in Chapters 15 and 16.)

Expanded National Activity Since the Civil War

Since the Civil War, and especially during the twentieth century, the activities of the national government expanded greatly, so that they now touch on almost every aspect of daily life and are thoroughly entangled with state government activities.

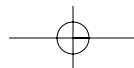
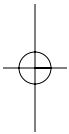
The Late Nineteenth Century to World War I During the late nineteenth century, the national government was increasingly active in administering western lands, subsidizing economic development (granting railroads

due process clause

The section of the Fourteenth Amendment that prohibits states from depriving anyone of life, liberty, or property “without due process of law,” a guarantee against arbitrary or unfair government action.

equal protection clause

The section of the Fourteenth Amendment that provides equal protection of the laws to all citizens.



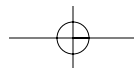
enormous tracts of land along their transcontinental lines), helping farmers, and beginning to regulate business, particularly through the Interstate Commerce Act of 1887 and the Sherman Antitrust Act of 1890. The national government became still more active with Woodrow Wilson's New Freedom domestic legislation in 1913 and 1914, and with the great economic and military effort of World War I. During that war, for example, the War Industries Board engaged in a form of economic planning whose orders and regulations covered a substantial number of the nation's manufacturing firms.

The New Deal and World War II Still more important, however, was Franklin Roosevelt's New Deal of the 1930s. In response to the Great Depression, the New Deal created many new national regulatory agencies to supervise various aspects of business, including communications (the Federal Communications Commission, or FCC), airlines (the Civil Aeronautics Board, or CAB), financial markets (the Securities and Exchange Commission, or SEC), utilities (the Federal Power Commission, or FPC), and labor-management relations (the National Labor Relations Board, or NLRB). The New Deal also brought national government spending to such areas as welfare and relief, which had previously been reserved almost entirely to the states, and established the Social Security pension system.

World War II involved a total economic and military mobilization to fight Germany and Japan. Not surprisingly, directing that mobilization, as well as collecting taxes to support it, planning for production of war materials, and bringing on board the employees to accomplish all of this, was centered in Washington, D.C., not in the states.

The Post-War Period Ever since World War II, the federal government has spent nearly twice as much per year as all of the states and localities put together. Much of the money has gone in direct payments to individuals (through such items as Social Security benefits), and for national defense,

The Works Project Administration (WPA), created by Franklin Roosevelt as part of the New Deal, put many unemployed Americans to work on federal building projects during the Great Depression.



especially during the height of the Cold War and during the years of the Vietnam conflict.

Two other trends in the last third of the twentieth century enhanced the role of the national government relative to the states. The first was the civil rights revolution (discussed in Chapters 8 and 16), and the second was the regulatory revolution, especially regulation related to environmental protection (discussed in Chapter 17). With respect to both, national standards, often fashioned by bureaucrats under broad legislative mandates and watched over by federal courts, were imposed on both states and localities. The civil rights revolution also had a great deal to do with the creation of Lyndon Johnson's Great Society program designed both to alleviate poverty and politically empower the poor and racial minorities. The Great Society not only increased the level of domestic spending, but also increased the federal role in the political lives of states and localities.

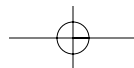
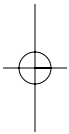
The Supreme Court's Support for Nationalism For several decades, beginning in the late nineteenth century, the U.S. Supreme Court resisted the growth in national government power to regulate business. In 1895, for example, it said that the Sherman Antitrust Act could not forbid monopolies in manufacturing, since manufacturing affected interstate commerce only "indirectly." In 1918, the Court struck down as unconstitutional a national law regulating child labor. During the 1930s, the Supreme Court declared unconstitutional such important New Deal measures as the National Recovery Act and the Agricultural Adjustment Act.⁸

After 1937, perhaps chastened by President Roosevelt's attempt to enlarge the Supreme Court and appoint more friendly justices, the Court became a nationalizing force, immediately upholding essential elements of the New Deal, including the Social Security Act and the National Labor Relations Act. Since that time, and until quite recently, the Court has upheld virtually every piece of national legislation that has come before it.

An important example is the Civil Rights Act of 1964, which rests on a very broad interpretation of the Constitution's commerce clause. In the 1964 act, the national government asserted a power to forbid discrimination at lunch counters and other public accommodations on the grounds that they are engaged in interstate commerce: They serve food imported from out of state. State economies are so closely tied to each other that by this standard, practically every economic transaction everywhere affects interstate commerce and is therefore subject to national legislative power.

Resurgence of the States in the 1990s

During the 1990s, there were a number of indications that the states were becoming more important in the American federal system. First, the states accounted for an ever-increasing share of public spending in the United States, suggesting that they were becoming more active in providing the wide range of government services the public demands (see Figure 3.3). Second, the states accounted for an ever-increasing share of public employees in the United States; while state (and local) government employment grew during the 1990s, federal government employment shrank, suggesting that government service delivery was shifting to the states. Moreover, according to many scholars and political observers, state governments began to capture a rising share of the talented people who enter government service, both in elected office and in state bureaucracies.⁹ None of this would have happened unless the states had become increasingly important as locations for policy innovations and delivery of government services.



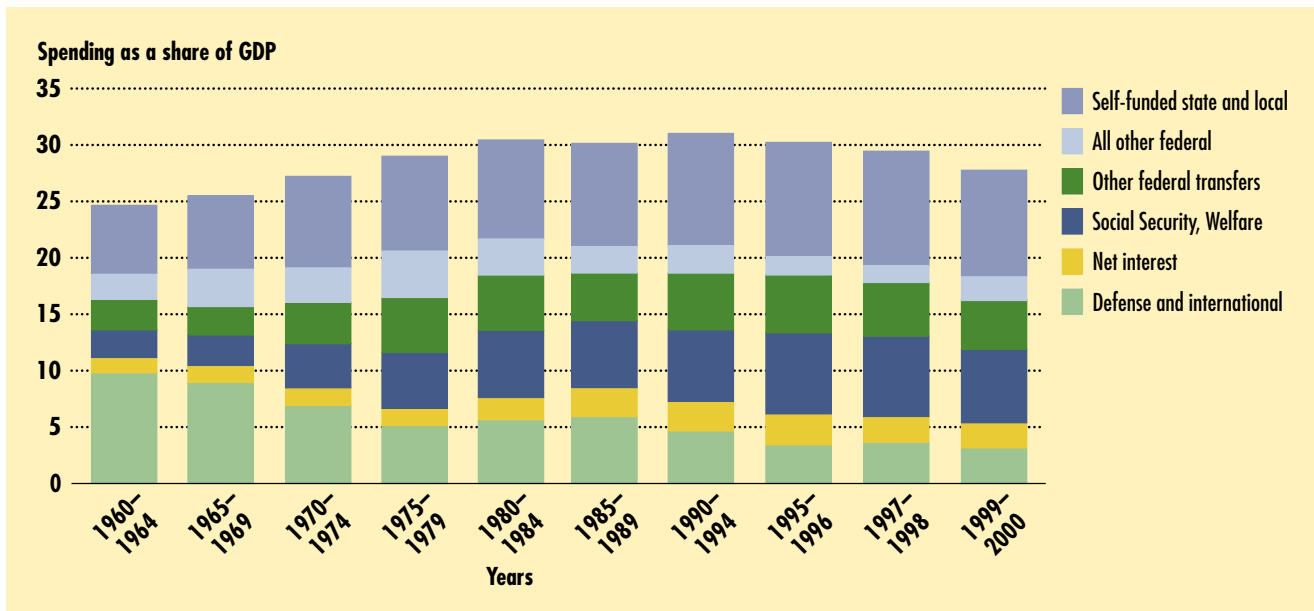


FIGURE 3.3 U.S. Public Spending, 1960–2000

A steadily increasing share of U.S. public spending is accounted for by state and local governments out of their own revenues. Most of the increase in government spending in recent years has been by the states, suggesting their increasingly important role in our federal system.

Source: Office of Management and Budget, Fiscal 2002 Budget, Historical Table 15.5.

devolution

The delegation of power by the central government to state or local bodies.

What was behind the new vitality of the states within American federalism was the growing national consensus during the 1980s and 1990s about the virtues of **devolution**. Public opinion surveys, for example, showed that a substantial majority of Americans believed that state governments were more effective and more trustworthy than the government in Washington and more likely to be responsive to the people. And Americans said that they wanted state governments to do more and the federal government to do less.¹⁰

The Rehnquist Court has been especially enthusiastic about increasing the power of the states and decreasing that of the national government. It overruled a number of federal actions and laws on the ground that the federal government had exceeded its constitutional powers, reversing over half a century of decisions favoring an increased federal government role. In 1995, for example, the Court overturned federal legislation banning guns from the area around schools, and legislation requiring background checks for gun buyers, arguing that both represented too broad a use of the commerce power in the Constitution. The Court used similar language in 2000 when it invalidated part of the Violence Against Women Act and in 2001 when it did the same to the Americans with Disabilities Act. The Court also decided two cases in which it ruled that states could not be sued for violating federal rules and laws. It based the decision on a concept of “state sovereign immunity” that most constitutional scholars had never heard of and that considerably increased the autonomy of the states. In a 5-4 decision in the case *Federal Maritime Commission v. South Carolina* (2002), the court reaffirmed this controversial doctrine.

President Clinton was also an enthusiastic devotee of devolution, freely granting waivers from federal regulations to the states for experimenting with new forms of welfare, boasting of cuts in federal government employment, and touting the benefits of state government. And the Republican majority in the

104th Congress, working with President Clinton (but few from his party), passed legislation restricting “unfunded mandates” (about which we will have more to say later) and transferring welfare responsibility to the states.

Terrorism and the Resurgence of the Federal Government

The terrorist attacks of September 11, 2001, and the subsequent war on terrorism helped refocus the nation’s attention on national leaders in Washington, D.C. As in all wartime situations during our country’s history, war and the mobilization for war require centralized coordination and planning. This tendency toward nationalism during war will probably be further exaggerated by the perceived need for homeland security, with the national government in Washington playing a larger role in areas such as law enforcement, intelligence gathering, bank oversight (to track terrorist money), public health (to protect against possible bioterrorism), and more.

Changing American Federalism

Over the course of our history, there has been a perceptible shift of power and responsibility to the national government in Washington. We summarize that history in Figure 3.4. Imagine, if you will, a continuum of forms of government ranging from the pure unitary form on one end, to the pure confederal form at the other end, with the federal form as a midpoint between the two. We suggest that our original Constitution, though fundamentally federal in its design, was tilted slightly toward central government power. By 1980, we also suggest, the United States had shifted even further towards centralized government power. In the 1990s, states regained some lost ground. In all probability, the war on terrorism at home and abroad is likely to rekindle the long-term trend

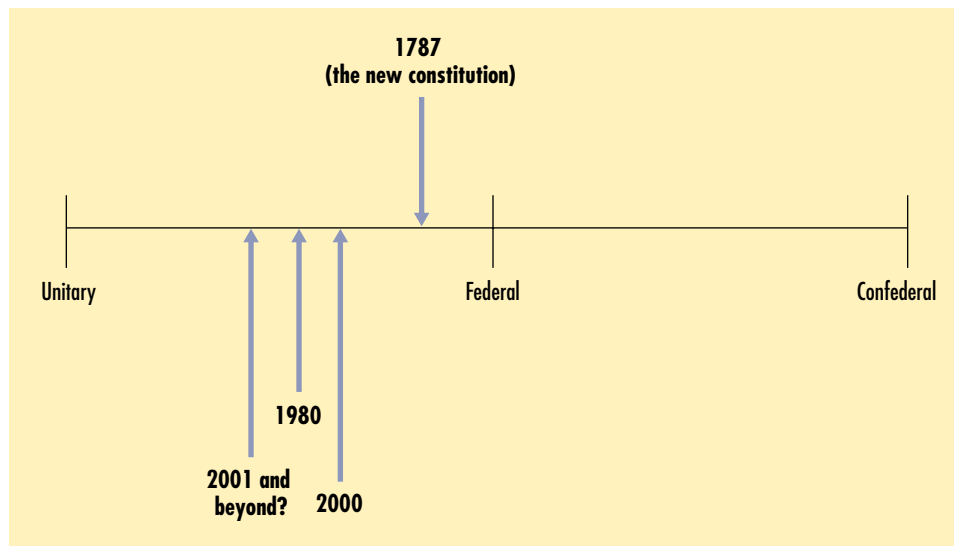


FIGURE 3.4 The Evolution of American Federalism

Over the years, American federalism has become more centralized in power and responsibilities, meaning that the nation has shifted slightly towards the unitary end of the Unitary–Confederal continuum. The war on terrorism may move the United States even further toward the unitary end.

towards national government preeminence. Note, however, that the 2001 arrow on the continuum is still placed well to the right of unitary government, suggesting that the states still play, and will continue to play, a very important role in the way Americans govern themselves.

“Marble Cake” Today’s federalism is very different from what it was in the 1790s or early 1800s. One major difference is that the national government is dominant in many policy areas; it calls many shots for the states. Another difference is that state and national government powers and activities have become deeply intertwined and entangled. The old, simple metaphor for federalism was a “layer cake”: a system of *dual federalism* in which state and national powers were neatly divided into separate layers. If we stay with bakery images, a much more accurate metaphor for today’s federalism is a “marble cake”: a **cooperative federalism** in which elements of national and state influence swirl around each other, without very clear boundaries.¹¹ Much of this intertwining is due to financial links among the national and state governments which we address in the next section.

cooperative federalism

Federalism in which the powers of the states and the national government are so intertwined that public policies can happen only if the two levels of government cooperate.

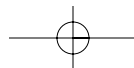
National Grants-in-Aid to the States

One of the most important elements in modern American federalism is the grant of money from the national government to state and local governments, which has been used to increase national government influence over what the states and localities do. These grants have grown from small beginnings to form a substantial part of government budgets.

Origin and Growth of Grants

National government grants to the states began at least as early as the 1787 Northwest Ordinance. The U.S. government granted land for government buildings, schools, and colleges in the Northwest Territory and imposed various regulations, such as forbidding the importation of any new slaves. During the early nineteenth century, the national government provided some land grants to the

Lyndon Johnson visits Job Corps sites. The Job Corps was part of Johnson’s Great Society of the 1960s, which relied heavily on categorical grants to state and local governments.



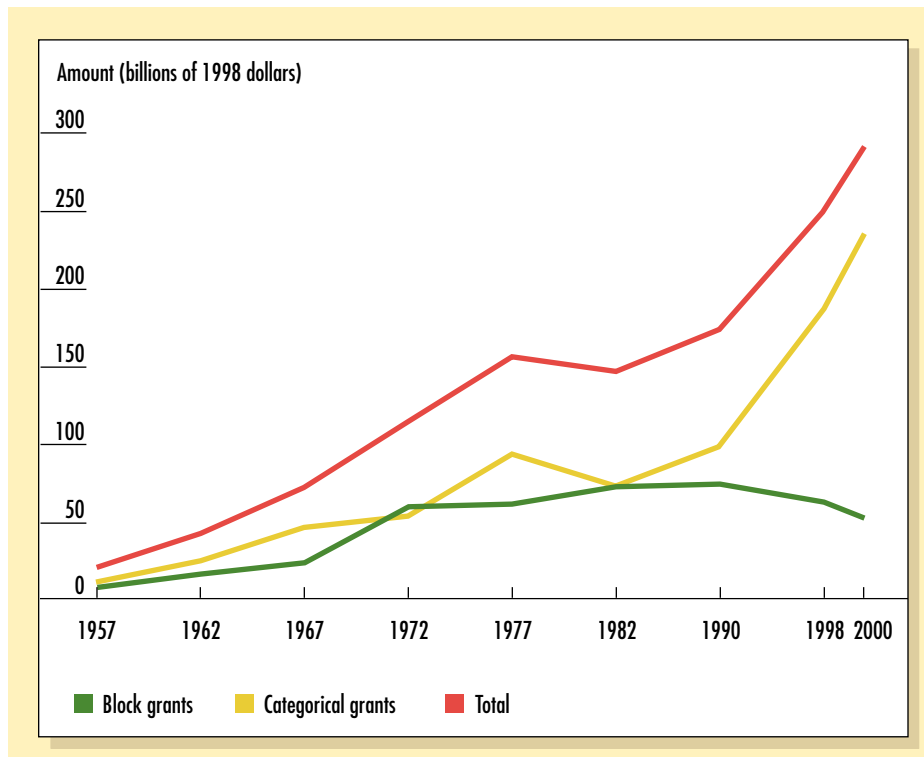


FIGURE 3.5 The Growth of Federal Grants-in-Aid

Federal grants-in-aid to state and local governments grew sharply during the 1960s and peaked at the end of the 1970s. They then declined in the early 1980s during the Reagan administration but increased again in the 1990s.

Source: Budget of the United States, Fiscal Year 2001, Historical Table and U.S. Census Bureau, 2001.

states for roads, canals, and railroads, as well as a little cash for militias; after 1862, it helped establish agricultural colleges. Some small cash-grant programs were begun around 1900 for agriculture, vocational education, and highways.¹²

However, it was during the 1950s, 1960s, and 1970s, under both Republican and Democratic administrations, that federal grants to the states really took off. Such programs as President Dwight Eisenhower's interstate highway system and President Lyndon Johnson's Great Society poured money into the states.¹³ After a downturn and a pause during the Carter and Reagan presidencies, grants began to increase again in the 1990s (see Figure 3.5). National grant money to the states increased because Congress sought to deal with many nationwide problems—especially interstate highways, poverty, crime, and pollution—by setting policy at the national level and providing money from national tax revenues while having state and local officials carry out the policies.

Categorical Grants

Many of the new programs were established through **categorical grants**, which give the states money but clearly specify the category of activity for which the money has to be spent and often define rather precisely how the program should work. For example, the Clean Air Act of 1970 and the Medicaid program of 1965 provided large amounts of money along with specific instructions on how to use it.

categorical grants

Federal aid to states and localities clearly specifying what the money can be used for.

As the new programs were developed and enacted, there was much talk about a new system of “cooperative” federalism. Soon, however, conflicts between the national and the state governments emerged. In some cases, when national rules and guidelines were vague, state and local governments used the money for purposes different from those Congress intended. When the rules were tightened up, some state and local governments complained about “red tape.” And if state and local governments were bypassed, they complained that their authority had been undermined.

Block Grants and Revenue Sharing

The Republican Nixon and Ford administrations eased national control, first instituting **block grants** (which give money for more general purposes and with fewer rules than categorical grant programs), then **general revenue sharing**, which distributed money to the states with no federal controls at all. President Nixon spoke of a “New Federalism” and pushed to increase these kinds of grants with few strings attached. They often provided money under an automatic formula related to the statistical characteristics of each state or locality, such as the number of needy residents, the total size of the population, or the average income level.

Disputes frequently arise when these formulas benefit one state or region rather than another. Because statistical counts by the census affect how much money the states and localities get, census counts themselves have become the subject of political conflict. Illinois, New York, and Chicago sued the Census Bureau for allegedly undercounting their populations, especially the urban poor, in the 1990 census.

Block grants—and especially revenue sharing—reached a peak at the end of the 1970s, when they constituted about one-quarter of the total **grants-in-aid**. But then they fell out of favor. Increasing numbers of strings were attached to the money, and general revenue sharing was completely ended in 1987. Though block grants are still important, a good deal more of federal government money distributed to the states is in the form of categorical grants (see Figure 3.5).

block grants

Federal grants to the states to be used for general activities.

general revenue sharing

Federal aid to the states without any conditions on how the money is to be spent.

grants-in-aid

Funds from the national government to state and local governments to help pay for programs created by the national government.



Web Exploration

State-National Balance of Payments

Issue: Citizens in the states pay taxes to the federal government, and states receive back federal grants-in-aid to support a range of programs. Some states fare better in this process than others.

Site: Go to our Website at www.ablongman.com/greenberg. In the “Web Explorations” section for Chapter 3, open “State-National Balance of Payments,” then open “taxes.” Select Item 3 and look at state rankings, as well as the profile of your own state.

What You’ve Learned: Which states fare best in the exchange of funds between the states and the federal government? How does your own state fare? Why do you suppose that some states do better than others?

HINT: Relatively speaking, the poorest states get the most, meaning that a rough sort of regional redistribution is going on.



The states depend on federal aid, often based on formulas using census figures, to help them take care of the homeless. But when 2000 census takers failed to count a large number of homeless people, cities received less money in national grants.

Debates About Federal Money and Control

Most contemporary conflicts about federalism concern not just money but also control.

Conditions on Aid As we have seen, many categorical grant-in-aid programs require that the states spend federal money only in certain restricted ways. Increasingly, even general block grants have carried **conditions**. In theory, these conditions are “voluntary” because the states could refuse to accept the aid. But in practice, there is no clear line between incentives and coercion. Because the states cannot generally afford to give up federal money, they have to accept the conditions attached to it.

Some of the most important provisions of the 1964 Civil Rights Act, for example, are those that declare that no federal aid of any kind can be used in ways that discriminate against people on grounds of race, gender, religion, or national origin. Thus, the enormous program of national aid for elementary and secondary education, which began in 1965, became a powerful lever for forcing schools to desegregate.

The national government uses its money to influence many diverse kinds of policies. During the energy crisis of the 1970s, all states were required to impose a 55-mile-per-hour speed limit or lose a portion of their highway assistance funds. The requirement was finally repealed in 1995. Similarly, in 1984, all states were required to set a minimum drinking age of 21 or have their highway aid cut by 15 percent.

Mandates The national government often imposes a **mandate**, or demand, that the states carry out certain policies even when little or no national government aid is offered. Mandates have been especially important in the areas of civil rights and the environment. Most civil rights policies flow from the equal protection clause of the Fourteenth Amendment to the U.S. Constitution or from national legislation that imposes uniform national standards. Most environmental regulations also come from the national government, since problems of dirty air, polluted water, and acid rain spill across state boundaries. Many civil rights and environmental regulations, therefore, are enforced by the federal courts.

conditions

Provisions in federal assistance requiring that state and local governments follow certain policies in order to obtain federal funds.

mandate

A formal order from the national government that the states carry out certain policies.

Opposition to federal court-ordered busing—like this demonstration in Charlestown, Massachusetts—formed one element in a conservative turn in U.S. politics at the end of the 1970s.



Federal courts have, for example, mandated expensive reforms of overcrowded state prisons, most notably in Texas. National legislation and regulations have required state governments to provide costly special facilities for the disabled, to set up environmental protection agencies, and to limit the kinds and amounts of pollutants that can be discharged. The states often complain bitterly about federal mandates that require state spending without providing the money.

Cutting back on these “unfunded mandates” was one of the main promises in the Republicans’ 1994 Contract with America.¹⁴ The congressional Republicans delivered on their promise early in 1995 with a bill that had bipartisan support in Congress and that President Clinton signed into law. Because it does not apply to past mandates, however, and because it does not ban unfunded mandates but only regulates them (requiring cost-benefit analyses, for example), it is not yet clear how much effect the legislation will have.

U.S. Federalism: Pro and Con

Over the years, from the framing of the U.S. Constitution to the present day, people have offered a number of strong arguments for and against federalism, in contrast to a more unitary system. Let us consider some of these arguments.

Pro: Diversity of Needs The oldest and most important argument in favor of decentralized government is that in a large and diverse country, needs and wants and conditions differ from one place to another. Why not let different states enact different policies to meet their own needs? (See the Using the Framework box on why states can set their own tuition levels, including those for out-of-state students.)

Con: The Importance of National Standards However, the needs or desires that different states pursue may not be worthy ones. Political scientist William Riker has pointed out that, historically, one of the main effects of federalism was to let white majorities in the southern states enslave and then

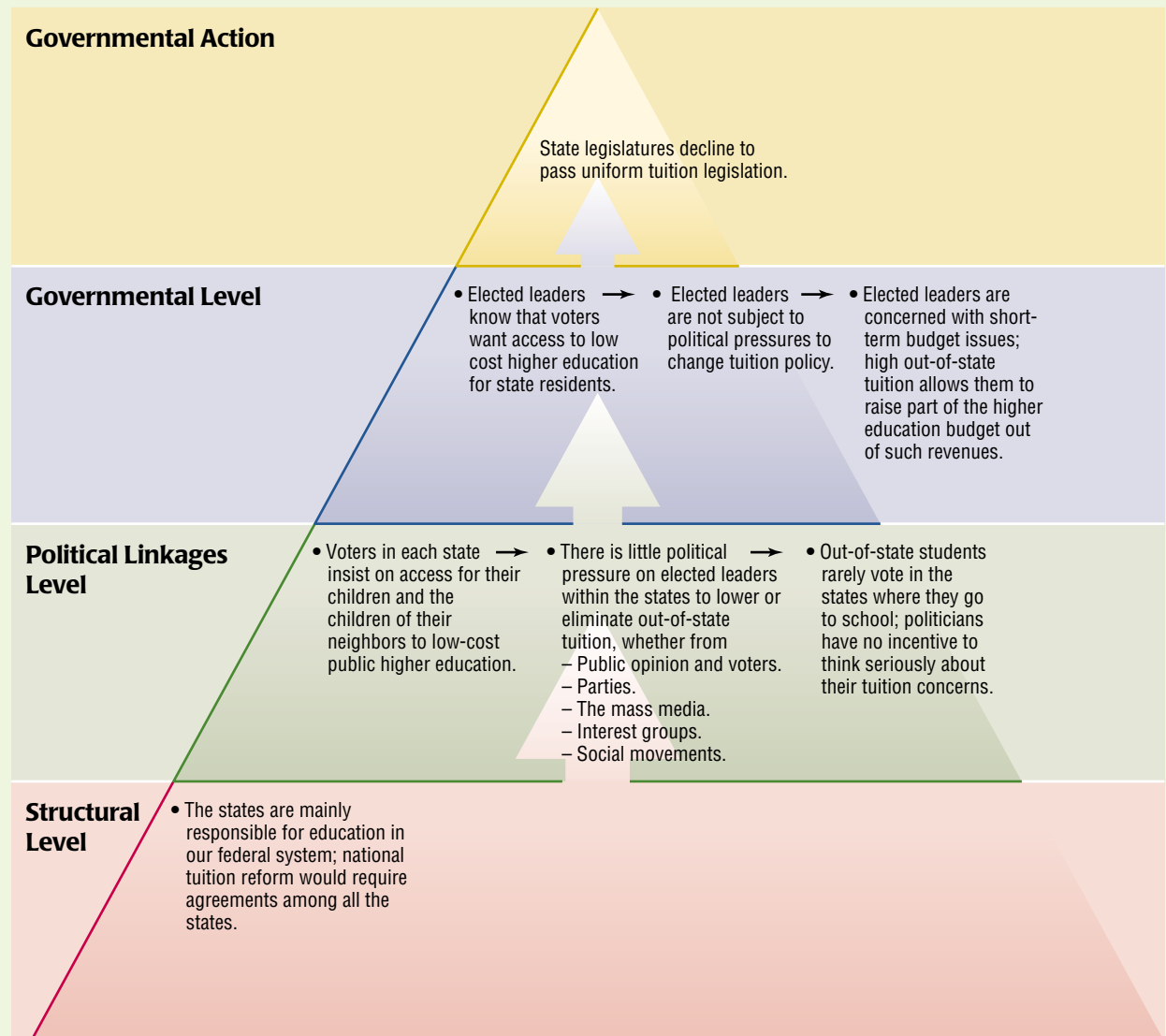


USING THE FRAMEWORK: Out-of State-Tuition

I thought that attending a public university would save a lot of money, but it hasn't because I have to pay out-of-state tuition. Why do I have to pay so much money?

Background: All over the United States, students who choose to attend out-of-state public universities pay much higher tuition than state residents. Some educational reformers have suggested that the system be reformed so that students might attend public universities wherever they choose, without financial penalty. They have suggested that, over the long-haul

and on average, such a reform would not have much impact on state budgets because students would randomly distribute themselves across state borders. Such proposals have never gotten very far. Taking a broad view of how structural, political linkage, and governmental factors affect this issue will help explain the situation.



discriminate against black people, without interference from the North.¹⁵ Perhaps it is better, in some cases, to insist on national standards that apply everywhere.

Pro: Closeness to the People It is sometimes claimed that state governments are closer to the ordinary citizens, who have a better chance to know their officials, to be aware of what they are doing, to contact them, and to hold them responsible for what they do.

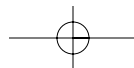
Con: Low Visibility and Lack of Popular Control However, others respond that geographic closeness may not be the real issue. More Americans are better informed about the *national* government than they are about state governments, and more people participate in national than in state elections. When more people know what the government is doing and more people vote, they are better able to insist that the government do what they want. For that reason, responsiveness to ordinary citizens may actually be greater in national government.

Pro: Innovation and Experimentation When the states have independent power, they can try out new ideas. Individual states can be “laboratories.” If the experiments work, other states or the nation as a whole can adopt their ideas, as has happened on such issues as allowing women and 18-year-olds to vote, fighting air pollution, reforming welfare, and dealing with water pollution.¹⁶

Likewise, when the national government is controlled by one political party, federalism allows the states with majorities favoring a different party to compensate by enacting different policies. This aspect of diversity in policy-making is related to the Founders’ contention that tyranny is less likely when government’s power is dispersed. Multiple governments reduce the risks of bad policy or the blockage of the popular will; if things go wrong at one governmental level, they may go right at another.

Con: Spillover Effects and Competition Diversity and experimentation in policies, however, may not always be good. Divergent regulations can cause bad effects that spill over from one state to another. When factories in

Industrial pollution—here toxic metals seep into the soil and groundwater at an abandoned industrial site—often affects the people of more than one state and requires the participation of the national government to clean up the mess and prevent recurrences.



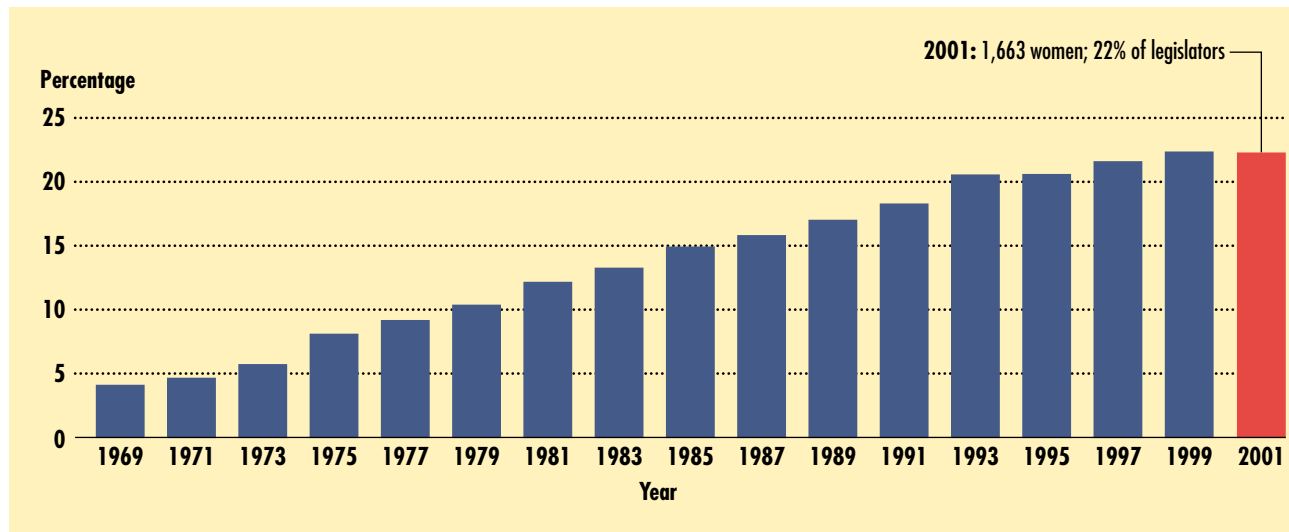


FIGURE 3.6 Women Legislators in the United States, 2001

There has been a steady increase in the number of women legislators in the United States over the past three decades or so. Wide variations exist among the states, however, on what proportion of their legislatures are made up of women.

Source: National Conference of State Legislators, 2001.

the Midwest spew out oxides of nitrogen and sulfur that fall as acid rain in the Northeast, the northeastern states can do nothing about it. Only nationwide rules can solve such problems. Similarly, it is very difficult for cities or local communities in the states to do much about poverty or other social problems. If a city raises taxes to pay for social programs, businesses and the wealthy may move out of town, and the poor may move in, impoverishing the city.¹⁷

Pro: Training Ground for Women and Racial Minorities It is often in politics at the local and state levels that talented women and minority group members have been identified, recruited, and trained for public office (see Figure 3.6). And it is frequently their performance on the job and the visibility provided by state and local offices that launches women and minorities into national politics. Former Congresswoman Barbara Jordan, an African-American, made her start in Texas politics. Senator Carol Moseley-Braun was a player in Illinois politics before she made her successful run for the Senate (she lost her bid for a second term, however). Loretta Sanchez was active in Orange County, California, politics before she won a seat in Congress in 1996. J. C. Watt (R-OK), an African-American, was elected Oklahoma Corporation Counsel before he won election to the House of Representatives.

What Sort of Federalism?

As the pros and cons indicate, a lot is at stake. It is not likely, however, that Americans will ever have a chance to vote yes or no on the federal system or to choose a unitary government instead. What we can decide is exactly *what sort* of federalism we will have—how much power will go to the states and how much will remain with the national government. Indeed, we may want a fluid system in which the balance of power varies from one kind of policy to another.

The balance of power between states and nation has been a very hot issue in recent years, with most Republicans favoring increasing the power of

A shift of power and responsibility from the federal level to the state level, given low voting turnout in state and local elections, may mean a decrease in the quality of American democracy.



HOW DEMOCRATIC ARE WE?

Federalism, Majority Rule, and Political Equality

PROPOSITION: Federalism undermines democracy by getting in the way of majority rule and political equality.

AGREE: Federalism adds complexity to policy-making and makes it difficult for citizens to know which elected leaders to hold responsible for government actions. Also, citizens are much less informed about what goes on in state governments where many important policies are made. In state-level politics, popular participation tends to be lower, politics tends to be less visible, and interest groups may have an easier time getting their way. Because the well organized and the affluent have extra influence, political equality is impaired.

DISAGREE: Federalism promotes popular democracy rather than undermining it. It does so by allowing a majority of citizens in each state to exercise control over a range of policies that directly affect them. This is especially important in a country where the populations of the states vary as widely as they do. With diverse populations, with their diverse needs and interests, federalism allows for diverse policies.

THE AUTHORS: On balance, federalism has served the intentions of the framers by toning down the influence of democracy in determining what the national government does, while maintaining popular consent. There are four ways that federalism constrains democracy. First, many policy areas (such as education) are mainly the responsibility of the states, where policymakers are insulated from national majorities. Second, small-population states play a decisive role in the constitutional amending process. Third, small and large states have equal representation in the Senate, meaning that senators representing a minority of the population can block actions favored by senators representing the majority. Fourth and finally, state politics are much less visible to the public and are especially vulnerable to the influence of special interests. This may well be changing, however; as state governments do more, the media and the public are more likely to pay closer attention in the future.

state governments and Democrats favoring retention of national government programs and standards. Over the long term of American history, of course, the nationalist position on federalism rather than the states' rights position has generally prevailed. While some devolution of governmental power occurred in the 1990s, the terrorist attacks on the United States in 2001 and the subsequent war on terrorism may have tilted the balance once again toward the center.

It is important to keep in mind that arguments about federalism do not concern just abstract theories; they affect who wins and who loses valuable benefits. People's opinions about federalism often depend on their interests, their ideologies, and the kinds of things they want government to do.

Summary

Federalism, a system under which political powers are divided between the state and national governments, is a key structural aspect of American politics. Federalism is most frequently found in large, diverse countries. Arguments in favor of federalism have to do with diversity of needs, closeness to the people, experimentation, and innovation. Arguments against federalism involve national standards, popular control, and needs for uniformity.

The U.S. Constitution specifies the powers of the national government and reserves all others (except a few that are specifically forbidden) to the states. The Constitution also provides special roles for the states in adopting and amending the Constitution and in choosing national officials. The precise balance of federalism has evolved over time, with the national government gaining ground as a result of U.S. Supreme Court decisions, the Civil War, expanding national domestic programs, two world wars, and the war against terrorism.

Contemporary federalism involves complex "marble cake" relations among the national and state governments, in which federal grants-in-aid play an important part. Grants for many purposes grew rapidly for a time but have now slowed down. The national government also influences or controls many state policies through mandates and through conditions placed on aid. Federalism has mixed implications for democracy.

Suggestions for Further Reading

Donahue, John D. *Disunited States*. New York: Basic Books, 1997.

Examines the new vitality of the states in the federal system and raises questions about the costs and benefits of the transformation.

Grodzins, Morton. *The American System*. New Brunswick, NJ: Transaction Books, 1983.

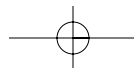
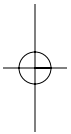
A classic work that describes and approves of a complex intermingling of national, state, and local government functions.

Hero, Rodney E. *Faces of Inequality: Social Diversity in American Politics*. New York: Oxford University Press, 1998.

An impressive argument with strong empirical evidence that the racial composition of states matters for patterns of state politics and patterns.

Peterson, Paul E. *The Price of Federalism*. Washington, D.C.: Brookings Institution, 1995.

Describes modern federalism and argues that the national government is best at redistributive programs, while the states and localities are best at economic development.



Riker, William H. *The Development of American Federalism*. Boston: Kluwer Academic, 1987.

An influential discussion of what American federalism is and how it came about.

Walker, David B. *The Rebirth of Federalism*, 2nd ed. New York: Chatham House/Seven Bridges Press, 2000.

Examination of the revitalization of the states and why it has happened.

Internet Sources

Assessing the New Federalism <http://newfederalism.urban.org/>

News, essays, and research on the New Federalism and devolution.

National Center for State Courts www.ncsconline.org

Links to the home pages of the court systems of each of the states.

National Conference of State Legislatures <http://www.ncsl.org>

Information about state governments and federal relations, including the distribution of federal revenues and expenditures in the states.

Publius <http://ww2.lafayette.edu/~publius/>

Home page of the leading academic journal on federalism.

State Constitutions www.findlaw.com/

A site where the constitutions of all the states may be found.

U.S. Federalism Site www.min.net/~kala/fed

As complete a site as one might wish for on the history, philosophy, law, and operation of federalism in the United States.

Notes

1. "Michigan's Welfare System: Praise amid Warning Signs," *The New York Times* (October 24, 1995), pp. 1, 12; "Steps Taken on Michigan Welfare," *The New York Times* (November 1, 1995), p. 11.
2. Virginia Ellis, "Welfare Reform," *The Los Angeles Times* (August 22, 1997), p. 1. We examine the effects of welfare reform on the poor in Chapter 17.
3. William H. Riker, *The Development of American Federalism* (Boston: Kluwer Academic, 1987), pp. 56–60.
4. Rodney Hero, *Faces of Inequality: Social Diversity in American Politics* (New York: Oxford University Press, 1998).
5. *Ibid.*, pp. 31–34.
6. *Martin v. Hunter's Lessee* (1816); see also *ibid.*, pp. 39–42.
7. Robert G. McCloskey, *American Supreme Court*, 2nd ed., ed. Sanford Levinson (Chicago: University of Chicago Press, 1994), pp. 43–45.
8. McCloskey, *American Supreme Court*, pp. 97–100, 111–112.
9. Donahue, *Disunited States*, pp. 11–12.
10. *Ibid.*, p. 13.
11. Morton Grodzins, *The American System* (New Brunswick, NJ: Transaction Books, 1983).
12. David B. Walker, *Toward a Functioning Federalism* (Cambridge, MA: Winthrop, 1981), pp. 60–63.

13. Paul E. Peterson, Barry G. Rabe, and Kenneth Wong, *When Federalism Works* (Washington, D.C.: Brookings Institution, 1986), p. 2.
14. Ed Gillespie and Bob Schellhas, eds., *Contract with America: The Bold Plan by Rep. Newt Gingrich, Rep. Dick Armey and the House Republicans to Change the Nation* (New York: Random House, 1994), p. 125.
15. William H. Riker, *Federalism: Origin, Operation, Significance* (Boston: Little, Brown, 1964), ch. 6.
16. Jack Walker, "The Diffusion of Innovations Among the American States," *American Political Science Review*, 63 (1969), p. 883.
17. Paul E. Peterson, *City Limits* (Chicago: University of Chicago Press, 1981); Paul E. Peterson, *The Price of Federalism* (Washington, D.C.: Brookings Institution, 1995).

