CHAPTER 2

Federalism and the States

CHAPTER SUMMARY

Federalism is an important concept for understanding the American political system. The founders of the original United States had to answer the question of the proper allocation of power and responsibility between the states and national government. There are three alternative forms of government the framers could have used: a unitary government, a confederacy, or a federal system. By adopting the Articles of Confederation, they initially established a confederation. Under the Articles of Confederation the nation nearly failed. To rectify the shortcomings, a constitutional convention created a federal system and built into it practical devices to control factions who would otherwise pursue their own ends to the detriment of the larger society. Those safeguards were representative government, three branches of government that contained checks and balances, and a federal system. A federal system is a political arrangement where power is shared between the different levels of government. In the case of the United States, federalism shares power between the federal government and the states. There are advantages and disadvantages associated with a federal system. It facilitates management of social and political conflict, promotes administrative efficiency, encourages innovation, maximizes participation, and protects individual freedoms. Among the disadvantages are that coordinating the efforts of multiple governments is difficult, a federal system results in duplication of governmental activities, and local interests may damage the national interest.

As the Constitution of 1787 was being written, the framers were at odds in their efforts to satisfy both large and small states. As part of the Great Compromise, the framers created a lower house based on population and an upper house based on equal state membership, thus protecting the small states. The framers also limited the specific powers of the central government to 17 and established the Supreme Court as the final arbiter of conflicts between the states and the central government. The Tenth Amendment seemed to reinforce the beliefs of those who favored a state-centered federalism. Supporters of this view argued that the Constitution was a compact among sovereign states, and it became the foundation for southern dissatisfaction before the Civil War.

The Supreme Court’s decisions under Chief Justice John Marshall increasingly strengthened the nation-centered concept of federalism; the Judiciary Act of 1789, based on the national supremacy clause of the Constitution, established the Court as the final arbiter of legal disputes between the national and state governments. Rulings based on the Constitution’s necessary and proper clause, the commerce clause, the general welfare clause, and the Fourteenth Amendment inexorably shifted the system to nation-centered federalism.

The U.S. Congress further increased the power and authority of the central government by its broad interpretations of national powers in the regulation of interstate and intrastate commerce and through taxing and spending authority granted it by the Sixteenth Amendment. The national government added authority by pre-emption of state legislation—a power granted it in Article VI of the Constitution. Thus, the configuration of American federalism today bears little relevance to the original division of powers between the central government and the states provided in the Tenth Amendment.
Local governments are not mentioned in the U.S. Constitution. They are creatures of their own states. In 1868, Iowa Judge John F. Dillon’s ruling on the subject of local government powers established that local governments may exercise only those powers explicitly granted them by the state or those clearly implied by these explicit powers. This has come to be known as “Dillon’s Rule.” The relationship between the states and their local governments is a unitary arrangement, meaning that states are supreme. In recent years, however, most state governments have given local government home rule, which provides some discretion and flexibility in carrying out specifically enumerated powers. About half of the states have carried home rule a step further and granted a very broad range of powers to local governments.

The primary mechanism for revenue transfers from the national government to nonnational governments has been the grants-in-aid. Two major variables in these grants are the amount of discretion given the recipient and the conditions under which the grant is awarded. Revenue sharing affords the most discretion and permits nonnational government to use it for any purpose; categorical grants afford the least discretion. Located somewhere between the two are block grants, which are limited in use to specific functional areas. Grants often require that matching funds be provided by the grant recipient as proof of commitment. Today categorical grants constitute about 90 percent of the total grant funding.

From 1787 until 1932, national and state powers were actively defined as sovereign and equal in their separate spheres of authority. This authority was called dual federalism, which is represented by a “layer cake” model. Franklin Roosevelt’s efforts to deal with the Great Depression in the 1930s produced an increase in national authority and were termed cooperative federalism, which has been represented by a “marble cake” model. The contemporary variations on cooperative federalism have been variously portrayed as creative federalism, picket-fence federalism, and New Federalism.

President Nixon called for a reordering of national-state-local relations using the term New Federalism. It was a reaction to centralization and an effort to free nonnational governments from the conditions attached to federal grants by adopting revenue sharing as a means of carrying on intergovernmental revenue transfer. In contrast, the main purpose of President Reagan’s plan of the same name was to shrink the size of the national government. The core of Reagan’s effort was “the turnback proposal,” under which the national and state governments would swap certain programs. It failed in Congress, but Reagan chipped away at grant programs and successfully terminated general revenue sharing.

President Bush reaffirmed his administration’s support for earlier Reagan efforts and by 1991 he had successfully proposed “turnovers” in transportation and education programs. But his proposals to shift responsibilities on administration and funding of Medicaid, Aid to Families with Dependent Children, food stamps, and Community Development Block Grants met resistance from both the nation’s mayors and governors. President Clinton did not repudiate the goals of New Federalism, but despite his previous experience as a governor he did not champion major shifts in authority or significantly increase federal aid to nonnational governments.

President George W. Bush, also a former governor, has not altered the goals of the New Federalism. However, it is difficult to evaluate President Bush’s efforts to continue devolution. His presidency has been dominated by international affairs, terrorism, and implementing some large-scale, national programs like No Child Left Behind, which resembles programs favored by Democrats in the past.

The American federal system has never been static, and the pendulum has swung back and forth over the lifetime of the Republic. Despite the focus on international matters, the pendulum still continues to swing in the direction of the states. As this shift occurs, cooperative federalism is the
operative model today, under a variant known as New Federalism. The fact remains that the states have become and will continue to be very important actors in solving the nation’s problems.