Chapter 3

The New Federalism: Does It Create Laboratories of Democracy or a Race to the Bottom?

Addressing the National Governors Association in Philadelphia in December 2008, President-elect Barack Obama quoted Justice Louis Brandeis's famous dissent in a 1932 Supreme Court case celebrating the ability of "a single courageous state" to "serve as a laboratory experimenting with innovative solutions to our economic problems." In the 2008 presidential campaign Obama did not articulate a theory of federalism, outlining how power should be divided between the federal government and the states. Obama's speech to the National Governors Association suggests that he favors giving more power to the states to experiment with new policies. In fact, Obama, like most presidents, is more of a pragmatist, favoring state power only when it favors his goals. Shortly after assuming office, for example, Obama reversed a Bush administration policy that had forbidden states, such as California, to have more stringent auto emissions standards than the federal government.

American politics often takes a peculiar form: instead of debating *what* policy should be enacted, people argue about *where* the policy decision should be made—at the federal, state, or local level. One side will proclaim its adherence to "states' rights" or "community control," invoking Brandeis's metaphor of states as laboratories of democracy. Critics of decentralization argue that giving states too much power can

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Note: Both phrases in the chapter title, "laboratories of democracy" and "race to the bottom," were coined by Louis Brandeis, U.S. Supreme Court justice from 1916 to 1939.

lead to a "race to the bottom" in which states favor wealthy investors over the poor, in order to attract investment, or violate the rights of minorities. Proponents of federal power argue that that it is needed to guarantee fairness and equal protection of the laws. Usually the two sides are sincere in their defense of different levels of democracy. As you might suspect, however, the debate is not just about ideals but about who will win and who will lose. This is because where decisions are made greatly affects who wins and who loses. This peculiar quality of the "game" of politics in the United States is determined by a system we call *federalism*.

Federalism is a system of government that divides power between a central government and state and local governments. As a theory of government, federalism was born in compromise during the struggle over the U.S. Constitution. Some of the framers of the Constitution favored a unitary system in which all significant powers would be placed in the hands of a central government. Realizing that such a system would never be approved by the voters, the framers compromised on a system that divided power between the two levels of government. As we saw in Chapter 1, the opponents of the Constitution, the Anti-Federalists, still feared that too much power had been given to the federal government at the expense of the states.

The ratification of the Constitution in 1789 did not settle the federalism issue, primarily because the language in the Constitution is exceedingly vague. The framers were themselves divided, so they left it up to future generations to settle the issue. The biggest crisis of federalism occurred over slavery. In 1861, the southern states decided they had the right to secede from the United States if they did not agree with the policies of the federal government. The issue was settled in a bloody civil war: States do *not* have the right to secede unilaterally from the union; they have to work out their differences within the federal system.

Until Franklin Roosevelt's New Deal of the 1930s, the federal government was remarkably uninvolved in a wide range of domestic policy functions where we now take for granted vigorous federal action. The halting response of states and localities to the Great Depression changed all that. Roosevelt swiftly moved the federal government into a wide range of functions, including Social Security, welfare, and regulation of the economy, that had previously been considered off limits. For the most part, however, Washington did not take over these functions but instead funded new programs with grants that were administered by state and local governments under varied federal rules. In the 1960s, under President Lyndon Johnson's leadership, the system of intergovernmental grants expanded tremendously.

Richard Nixon's election in 1968 began a period of reaction against the expanded powers of the federal government that has continued to this day. For the most part, Nixon did not try to roll back the functions of the federal government but instead deregulated the federal grant system and gave more power over grants to states and localities. The election of Ronald Reagan inaugurated a more radical phase of this new federalism in which efforts were made to return to the system that had existed before the New Deal when the federal government left many domestic policy functions to the states. Although confidence in all levels of government has fallen since the 1960s, the drop in confidence has been most severe for the federal government. A 2009 Pew Research Center poll found that only

42 percent of Americans had a "very or mostly favorable" opinion of the federal government compared to 50 and 60 percent favorable ratings for state and local governments, respectively.

The 1994 Republican takeover of Congress accelerated the trend toward devolution of federal powers to the states. In 1996, Congress passed, and President Bill Clinton signed, the Personal Responsibility and Work Opportunity Act, which converted welfare from a federal entitlement for individuals to a block grant to states, leaving them significant freedom to set their own eligibility criteria and conditions for aid.

The Supreme Court is also moving in the direction of restricting federal power. In 1995, the Court ruled for the first time in sixty years that Congress had exceeded its authority under the Interstate Commerce Clause of the Constitution and declared the federal Gun-Free School Zone Act of 1990 unconstitutional (*U.S. v. Lopez*). In a series of cases decided in 1999, 2000, and 2001, the Supreme Court made it more difficult for the federal government to enforce uniform national standards by giving states immunity against lawsuits alleging violation of federal laws in areas such as labor rights, violence against women, and discrimination on the basis of age or disability.

In times of crisis, however, the federal government invariably expands its power as the public looks to it for decisive action. The September 11 terrorist attacks greatly strengthened the case for expanded federal responsibilities, especially in law enforcement, public health, and airline safety. The financial crisis and economic recession that began in 2008 prompted major expansions of the federal government under both Republican and Democratic presidents. Facing a possible financial panic following the collapse of the Wall Street firm Lehman Brothers, President Bush approved the $700 billion Troubled Assets Relief Program (TARP), which authorized the Secretary of the Treasury to buy up troubled securities in order to stabilize the financial system and encourage lending. In February 2009 President Obama signed the American Recovery and Reinvestment Act (ARRA), which authorized pumping $787 billion into many different sectors of the American economy in order to stimulate recovery. The *New York Times* called this act "a striking return of big government" and conservatives attacked the expansion of the federal government and ballooning deficit (a debate we cover in Chapter 12).

In their essay "Beyond the Beltway," William Eggers and John O'Leary identify themselves with the "devolution revolution" generally supported by conservatives. They stress that the purpose of devolution is not just to make the existing government programs work more efficiently but to raise the question of whether certain functions should be the responsibility of government at all. Such decisions, they maintain, are better left with those governments that are closest to the grass roots, where citizens can see immediately the costs as well as the benefits of government programs. Shrink the federal government, Eggers and O'Leary say, and grassroots organizations will flourish, becoming "laboratories of democracy." Moreover, argue Eggers and O'Leary in a section of their book not reprinted here, the expanded powers of the federal government violate the U.S. Constitution, which in the Tenth Amendment reserves all powers not specifically given to the federal government "to the States respectively, or to the people."

John Donahue, the author of "The Devil in Devolution," argues that the words of the Constitution are much more ambiguous about the division of power between the federal government and the states than Eggers and O'Leary acknowledge. Moreover, Donahue argues, it is up to each generation to adapt the federal system to the needs of the time. Donahue criticizes the trend toward devolution. Whereas Eggers and O'Leary base their argument primarily on what we call (in the introduction) negative freedom—getting the government out of individuals' lives—Donahue stresses positive freedom, or the idea that by acting together, we can accomplish things we cannot accomplish separately. Donahue argues that when each state acts separately, those things that we all share, what he calls the "commons," can be damaged. For example, states may pursue economic development knowing that much of the pollution produced by it will drift to neighboring states. Instead of devolution resulting in "laboratories of democracy," Donahue suggests, the more likely result will be a "race to the bottom."

An intriguing aspect of this debate is that each side argues that its position is reinforced by modern technology. The reader will have to sort this out. Do you think that new technologies make it easier for decision making to be decentralized, or do they increase the interdependencies in society, thus requiring more central coordination? Note that the two sides in the debate stress different values. Eggers and O'Leary emphasize individual freedom and local democracy, whereas Donahue puts more stress on national values and equality. In this debate, are we forced to choose among competing values, or is there some way to slip between the horns of the dilemma of devolution and serve all values?

The contemporary debate on federalism reverberates with the same issues and arguments that have been made since the country's founding. It is unlikely that this debate will ever be completely settled. It seems as though each generation is doomed to decide anew the proper balance between Washington, D.C., and the states and localities. Even though there is no one neat answer, this does not mean there is not a *better* answer for our time. It is up to the reader to decide which position will best serve the core values of American democracy.

Beyond the Beltway

WILLIAM D. EGGERS AND JOHN O'LEARY

Our swollen federal government is in large measure incompatible with the demands of a modern society. In today's Information Age, there is little rationale for the federal government to control as much as it does. Large, centralized bureaucracies—whether that be IBM headquarters, the Kremlin, or Washington, D.C.—aren't well suited to an age of rapid technological change. In business, companies are decentralizing, empowering workers, and establishing autonomous business units. (It's not just trendy, it's an economic necessity.) In politics, economic reality is relegating central planning to the dustbin of history.

Washington, D.C., is becoming increasingly irrelevant. Explain authors Alvin and Heidi Toffler:

> It is not possible for a society to de-massify economic activity, communications and many other crucial processes without also, sooner or later, being compelled to decentralize government decision making as well. There is no possibility of restoring sense, order, and management "efficiency" to many governments without a substantial devolution of central power.

In today's rapidly changing world, the performance of the federal government looks worse and worse. There is a reason for this. As technology advances, decentralized decision making becomes more efficient in more and more cases. The problems of centralized decision making are inherent to *any* central authority, whether corporate or governmental, and are based on the relationship between knowledge, decision-making power, and technology.

As technology advances, productivity increasingly depends on knowledge. And, as communications technology advances, *general* knowledge—the kind that can be written down—becomes widely accessible. But *specific* knowledge—the kind that requires firsthand experience and that is difficult to communicate—is as difficult to obtain today as it has ever been. Other things being equal, *specific* knowledge—the kind that is dispersed throughout society—is growing in importance relative to *general* knowledge. Thus, as technology advances, it makes less and less sense to bottle up decision-making authority in a distant, centralized bureaucracy. Dictating the "one best way" from Washington, whether in education, welfare, or crime fighting, makes less and less sense. In particular cases, there may be a compelling reason for maintaining centralized control, such as the need for a coordinated national defense. But as a general principle, for efficiency's sake we should be increasingly devolving power *away* from centralized bureaucracies.

More than simply efficiency is at stake, however. We need to return to our roots as self-governing people. Democracy is not a spectator sport. In a healthy democracy, citizens are actively involved in their own governance—and not simply on election day. Americans need to reconnect with the political process. Numerous functions now handled (and mishandled) by the federal government should be transferred back to the states and, wherever possible, to communities and individuals. Radical devolution brings government closer to home.

The Revolt Against Washington

In 1992, a highly respected economist wrote, "The federal government should eliminate most of its programs in education, housing, highways, social services, economic development, and job training."

These radical sentiments come from Alice Rivlin, then a Brookings Institution scholar and currently President Clinton's director of the Office of Management and Budget. Writing as an independent scholar, Rivlin called for a massive, radical devolution of federal programs to states.

Devolution is not a partisan issue. It is a recognition that centralized control and centralized decision making carry unacceptably high costs, in terms of both efficiency and democratic accountability. It is not a question of Democratic dictates from Washington versus Republican dictates. Following the election of 1994, Republican governors seem ready to oppose federal usurpation even when orchestrated by their fellow party members. "My priority is for Texans to be running Texas," says Texas Governor George W. Bush. "We're pretty good at what we do in Texas, and we like to be left alone by the federal government as much as possible." It's time to end the unequal partnership and the whole idea of one-size-fits-all national prescriptions. The American people have said it's time to move power and responsibility out of Washington—for good.

Devolution would restore clearer lines of responsibility between state and federal tasks. By bringing government closer to home, citizens could once again understand what each level of government does and hold the appropriate officials accountable at election time. Radical devolution will make much of what goes on inside the Beltway redundant or unnecessary. "You have to get rid of a lot of those vested interests in Washington," says Mayor [Stephen] Goldsmith [of Indianapolis]. "There are tens of thousands of people there whose only job in life is to control what I do."

The Department of Education, for example, spends about $15 billion a year on 150 different elementary and secondary programs. Since the department was created in 1979, Washington has become fond of imposing top-down solutions on local schools. Ohio Governor George Voinovich says his state's school superintendents spend nearly half their time filling out federal forms to get money that makes up only 5 to 6 percent of their school budgets.

… Joann Wysocki, [a] first-grade teacher from the Los Angeles Unified School District, … told us that the federal government was providing money for school days lost due to the 1994 earthquake. The rules required a special form, so every teacher had to copy *by hand* the attendance register. Photocopies were not acceptable. That's the rule. Wysocki doesn't like to jump through hoops for money from Washington, "That 'federal money' is our money to begin with, on the local level," she says. "Please don't insult anyone's intelligence saying anything else. The money comes back to us with strings attached. Why should the money go in the first place? Let it stay!"

Former Education Secretary William J. Bennett concurs: "We really do not need a Department of Education. We were educating our kids better before we had a Department of Education. Why do we have to pass the dollars from the states and locales to Washington and back out again?"

Sending housing, welfare, and social service programs to the states, as Rivlin proposes, would mean that Health and Human Services (HHS) and the Department of Housing and Urban Development (HUD) can also be dramatically downsized or eliminated. Even [former] Housing Secretary Henry Cisneros has admitted that much of what HUD does is expendable. "Many aspects of this department are simply indefensible," said Cisneros. "Change is necessary."

As for the Environmental Protection Agency (EPA), state environmental agencies are better positioned to know the problems of their states. "We don't need an EPA in Washington, D.C.," says [Arizona] Governor [Fife] Symington. "We have a Department of Environmental Quality in Arizona that is better at dealing with environmental problems in our state. You don't need an EPA in Washington with a command-and-control structure dictating environmental policies to the states." Though we believe the EPA's powers should be greatly curtailed, we're not as radical as Governor Symington in this regard. There are certain cross-border pollution issues that may require some form of federal involvement.

No More Federal Santa Claus

For radical devolution to become a reality will require a fundamental change in mind-set not only in Washington, but also among state and local politicians. Since the beginning of the Great Society, state and local officials have come to see the federal government as a kind of Santa Claus, doling out money for all sorts of programs. Many mayors and governors became professional beggars at the Capitol's steps. Programs that would never be funded with local tax dollars become "vital" so long as they are paid for with "federal" dollars.

Even more than states, big cities turned to Washington for help. Today, most cities are addicted to federal funds. Local politicians fear the loss of federal funds, but where do they imagine this money comes from in the first place? France, perhaps? Jersey City Mayor Bret Schundler, one of the few big-city mayors to oppose the crime bill, did so because he recognized that all "federal money" comes from people living in one of the 50 states to begin with. Says Schundler:

> Clinton wants to shift the burden of policing to the federal government and increase taxes. After he takes his big cut, he'll give us a portion of the money back for local policing. What a bonehead idea. The solution is not to shift taxes and make us pay more. The solution is reducing the cost of local policing.

Washington doesn't add any value to the tax dollars it receives and then sends back down to cities and states; in fact, the federal bureaucracy subtracts value as it takes its cut before sending money back to local governments.

Less federal money flowing out of Washington should mean less money flowing into Washington from the residents of cities and states. Keeping the money closer to home will also mean more flexibility, control, and accountability. "We understand this is going to mean less dollars from Washington," says New Jersey Governor Christine Todd Whitman, "but if you relieve us of some of the most onerous mandates, we will live with that." State and local officials need to stop judging the worth of joint federal/state programs merely in terms of whether they are funded by "federal dollars." "We as Governors need to begin to ask a new question about programs," says Utah Governor Mike Leavitt. "Instead of asking is this a funded program, we should ask, should there be a federal role?"

In the transportation arena, for example, the federal government could get out of highway and airport funding by forgoing the gasoline tax and letting states raise construction money themselves—whether through a state gasoline tax, by raising landing fees or highway tolls, or by securing private debt. This approach would allow states to avoid a host of federal mandates—including the 55-mile-per-hour speed limit, the Davis Bacon Act, and the minimum drinking age—that accompany acceptance of federal highway funds.

Local Money for Local Problems

In many areas the ultimate goal of policy must be to transfer as much power, authority, and responsibility as possible from government to individuals and local communities. Once citizens see the true cost of local programs now being financed from Washington, they may not think they're worth the tax dollars spent on them.

Consider, for example, the uproar that ensued in Manhattan Beach, California (where one of us lives), after the city council voted to spend money expanding a parking garage that residents felt would benefit only merchants. A front-page story in *The Beach Reporter* noted that "three dozen residents … bombarded the Manhattan Beach City Council on Tuesday…." Another story noted:

> [M]any residents complained that they were continually having to come down to City Hall to protect their interests. District 4 Council-member Bob Pinzler told the residents that they should continue voicing their opinions and concerns. "You have to keep coming down here to protect your interests," Pinzler said, "because the special interest groups are here all the time."

This is democracy at its local, messy best, with vigilant residents watching over elected officials spending their tax dollars. Chances are no one in Manhattan Beach even knew that the federal government spent $2.5 million of tax money to build a parking garage in Burlington, Iowa. That little item didn't make the front page of *The Beach Reporter*, and no Manhattan Beach residents drove the 3,000-odd miles to Washington, D.C., to testify before a congressional committee. At the federal level, organized interests have an enormous advantage. Former Education Secretary William Bennett estimates that 285 education lobbying groups have offices within walking distance of the Department of Education headquarters. The average Manhattan Beach parent doesn't have a prayer.

The parking garage story illustrates the phenomenon known as "bill averaging." Imagine going out to dinner by yourself. When ordering, you'll closely watch the cost of each menu selection because you'll be paying the entire bill. Even if you were going out to dinner with one or two friends, you still wouldn't spend outrageously because you'd still be footing a good portion of the bill.

Now imagine that you are going out to dinner with 75 strangers, and that the bill is to be divided evenly. If you are like most people, you are going to order liberally, enjoy an extra drink, maybe even dessert and coffee. And why not? Your order will only affect your bill a minuscule amount; besides, you can bet that everyone else will be ordering big. The only way to get your "fair share" is to order lobster and Lowenbrau.

The federal government is like going to dinner with 250 million strangers. Rather than everyone paying his own way, a complex tangle of cross-subsidies obscures everyone's actual bill.

It's time to ask for separate checks. The good folks of Burlington, Iowa, got a new parking garage because Uncle Sam took about one penny from every Manhattan Beach resident—and every other American. Because local taxpayers don't feel the bite, local officials love to spend "federal dollars." Would Altoonans have approved Altoona, Pennsylvania's multimillion dollar moving sidewalk if Altoonan taxes were going to pay for it? Unlikely. But since the folks in Burlington, Iowa, and Manhattan Beach, California, are footing the bill, the Altoonans are happy to be carried along.

The Devil in Devolution

JOHN D. DONAHUE

The shift in government's center of gravity away from Washington and toward the states—a transition propelled by both popular sentiment and budget imperatives, and blessed by leaders in both major parties—reflects an uncommon pause in an endless American argument over the balance between nation and state.

This moment of consensus in favor of letting Washington fade while the states take the lead is badly timed. The public sector's current trajectory—the devolution of welfare and other programs, legislative and judicial action circumscribing Washington's authority, and the federal government's retreat to a domestic role largely defined by writing checks to entitlement claimants, creditors, and state and local governments—would make sense if economic and cultural ties reaching across state lines were *weakening* over time. But state borders are becoming more, not less, permeable.

From a vantage point three-fifths of the way between James Madison's day and our own, Woodrow Wilson wrote that the "common interests of a nation brought together in thought and interest and action by the telegraph and the telephone, as well as by the rushing mails which every express train carries, have a scope and variety, an infinite multiplication and intricate interlacing, of which a simpler day can have had no conception." Issues in which other states' citizens have no stakes, and hence no valid claim to a voice, are becoming rarer still in an age of air freight, interlinked computers, nonstop currency trading, and site-shopping global corporations. Our current enchantment with devolution will be seen one day as oddly discordant with our era's challenges.

The concept of "the commons" can help to cast in a sharper light the perils of fragmented decision making on issues of national consequence. In a much-noted 1968 article in *Science*, biologist Garrett Hardin invoked the parable of a herdsman pondering how many cattle to graze on the village commons. Self-interest will lead the herdsman to increase the size of his herd even if the commons is already overburdened, since he alone benefits from raising an extra animal, but shares the consequent damage to the common pasture. As each farmer follows the same logic, overgrazing wrecks the commons.

Where the nation as a whole is a commons, whether as an economic reality or as a political ideal, and states take action that ignores or narrowly exploits that fact, the frequent result is the kind of "tragedy" that Hardin's metaphor predicts: Collective value is squandered in the name of a constricted definition of gain. States win advantages that seem worthwhile only because other states bear much of the costs. America's most urgent public challenges—shoring up the economic underpinnings of an imperiled middle-class culture; developing and deploying productive workplace skills; orchestrating Americans' engagement with increasingly global capital—involve the stewardship of common interests. The fragmentation of authority makes success less likely. The phenomenon is by no means limited to contemporary economic issues, and a smattering of examples from other times and other policy agendas illustrate the theme.

Environmental Regulation

Antipollution law is perhaps the most obvious application of the "commons" metaphor to policymaking in a federal system. If a state maintains a lax regime of environmental laws it spares its own citizens, businesses, and government agencies from economic burdens. The "benefits" of environmental recklessness, in other words, are collected in-state. Part of the pollution consequently dumped into the air or water, however, drifts away to do its damage elsewhere in the nation. If states held all authority over environmental rule making, the predictable result would be feeble regulations against any kinds of pollution where in-state costs and benefits of control are seriously out of balance. Even in states whose citizens valued the environment—even if the citizens of *all* states were willing to accept substantial economic costs in the name of cleaner air and water—constituents and representatives would calculate that their sacrifice could not on its own stem the tide and reluctantly settle for weaker rules than they would otherwise prefer.

A state contemplating tough antipollution rules might calculate that its citizens will pay for environmental improvements that will be enjoyed, in part, by others. Even worse, by imposing higher costs on business than do other states, it risks repelling investment, and thus losing jobs and tax revenues to states with weak environmental laws. Congress explicitly invoked the specter of a "race for the bottom"—competitive loosening of environmental laws in order to lure business—to justify federal standards that would "preclude efforts on the part of states to compete with each other in trying to attract new plants." In a series of legislative changes starting in the early 1970s, the major choices about how aggressively to act against pollution were moved to the federal government. While aspects of enforcement remained state responsibilities—introducing another level of complications that continues to plague environmental policy—the trade-off between environmental and economic values moved much closer to a single national standard.

National regulation in a diverse economy does have a downside. States differ in their environmental problems, and in the priorities of their citizens. Requiring all states to accept the same balance between environmental and economic values imposes some real costs and generates real political friction. Yet even if the tilt toward national authority is, on balance, the correct approach to environmental regulation, there is reason to doubt we got all the details right. Moreover, logic suggests that the federal role should be stronger for forms of pollution that readily cross state borders, and weaker for pollution that stays put. But federal authority is actually weaker under the Clean Air Act and the Clean Water Act than under the "Superfund" law covering hazardous waste. Toxic-waste sites are undeniably nasty things. But most of them are situated within a single state, and stay there.

Governmental Efficiency

There is an alluring a priori case for predicting that public-sector efficiency will increase as responsibilities flow to lower levels of government. Yet this *potential* advantage largely fails to pan out; there is little evidence of a significant or systematic state efficiency edge. The states share with Washington the basic operational handicaps of the public sector.

The devolution debate, moreover, is almost wholly irrelevant to the debt service and middle-class entitlements causing most of the strain on citizens' tolerance for taxation. It is safe to assert that the ascendancy of the states will have, at best, a limited impact on the cost of American government. This is not an argument based on ideology, or economic theory, or learned predictions about comparative administrative behavior. It is a matter of arithmetic. In 1996 total public spending came to about $2.3 trillion. State and local activities, funded by state and local taxes, *already* accounted for about one-third of this total. Another one-third consisted of check-writing programs like Social Security and Medicare. National defense (12 percent of the total), interest on the national debt (10 percent), and federal grants to state and local governments (another 10 percent) accounted for most of the remaining third of the public sector. All other federal domestic undertakings, taken together, claimed between 4 and 5 percent of total government spending. Suppose every last thing the federal government does, aside from running defense and foreign affairs and writing checks (to entitlement claimants, debt holders, and state and local governments) were transferred to the states—national parks and museums, air-traffic control, the FBI, the border patrol, the Centers for Disease Control, the National Weather Service, student loans, the space program, and all the rest. Suppose, then, that the states proved able to do *everything* that the federal government used to do a full 10 percent more efficiently. The cost of government would fall by a little under one-half of one percent.

Beyond the low ceiling on cost savings—and more pertinent to the hidden issue of the *quality* of government—is the similarity between most federal agencies and most state agencies on the core characteristics of scale, complexity, and administration by legislative statute and formal rules. It is rare that economic or managerial imperatives will call for the reassignment of authority away from central government, but then stop at the states. State boundaries have been drawn by a capricious history, and only occasionally (and then by accident) does a state constitute the most logical economic unit for either making policy or delivering services. The coalition between the state-sovereignty constitutionalists and the efficient-scale de-centralizers is based on a misunderstanding, and will break down as soon as it begins to succeed.

More promising strategies for improving the efficiency with which public purposes are pursued usually involve going *beyond* devolution to the states. The array of options includes privatization, to enlist private-sector efficiency advantages in the service of public goals; vouchers, to assign purchasing power while letting individuals choose how to deploy it; and the empowerment (through authority and resources) of levels of government smaller than the state, including cities, towns, and school districts. None of these strategies is without its risks and limits, but together they form a far richer menu of reform possibilities than the simple switch from federal to state bureaucracy.

Devolution is often, though misleadingly, cast as a way station toward such fundamental reforms. Its popularity among those convinced of American government's shortcomings, and committed to repairing them, diverts reformist energy that could be put to better use. State governments are only slightly, if any, less bureaucratic than Washington, and no less jealous of power or resistant to change. Power dislodged from federal bureaus is likely to stick at the state level instead of diffusing further. The characteristic pattern of American intergovernmental relations is rivalry between state and local officials, and Washington more often acts as local government's shield against state hegemony than as the common oppressor of cities and states. The ascendancy of the states is thus unlikely either to liberate local governments or to unleash fundamental reform in how government operates.

Rising Inequality

It is by no means certain that America will prove able to reverse growing economic inequality and the erosion of the middle class, no matter how we structure our politics. Devolution, however, will worsen the odds. Shared prosperity, amid the maelstrom of economic change tearing away at the industrial underpinnings of middle-class culture, is an artifact of policy. Policies to shore up the middle class include work-based antipoverty efforts that become both more important and more expensive as unskilled jobs evaporate; relentless investments in education and job training; measures to strengthen employees' leverage in the workplace; and a more progressive tilt in the overall burden of taxation. The individual states—each scrambling to lure mobile capital, fearful of losing businesses and well-off residents to lower-tax rivals, anxious to minimize their burden of needy citizens—will find such policies nearly impossible to sustain. As Washington sheds responsibilities and interstate rivalry intensifies, only a small-government agenda becomes realistic. But even for principled small-government conservatives, devolution is likely to prove less satisfying than many expect. Since it has been justified in terms of improving, not shrinking, government, the ascendancy of the states represents no conclusion to the debate over the public sector's proper size and scope.

Like the run-up in federal debt in the 1980s and early 1990s, devolution short-circuits (rather than settles) deliberation over government's purpose by making activism impossible—for a time. America's federal system is sufficiently resilient that unless citizens are convinced of small government's merits, the tilt toward the states that suppress public-sector ambition will eventually be reversed, though only after an unpredictable price has been paid. The conservative intellectual Herbert Storing has argued that a strategy of crippling the activist impulse through devolution, instead of discrediting it through reasoned appeal, was "not only contrary to the best conservative tradition but also hopelessly unrealistic." By attempting to enthrone the states as the sole locus of legitimate government, conservatives muffle their own voices in the conversation over the country's future.

By the standards of those who credit any diagnosis of what ails America *other than* "big government," shifting authority to competing states is likely to solve minor problems while causing, or perpetuating, far graver ills. As states gain a greater share of governmental duties but prove reluctant or unable to tax mobile firms or well-off individuals, the burden of funding the public sector will tilt even more heavily toward middle-class taxpayers. Their resentment of government can be expected to intensify. Efforts to use state laws or regulations to strengthen employees' leverage in the workplace will often be rendered unworkable by interstate competition for business. America's largest source of fiscal imbalance—the unsustainability of middle-class entitlement programs as the baby boom generation ages—will be untouched by devolution, feeding cynicism about the imperviousness to solution of America's public problems. And the fragmentation of taxing and spending authority puts in peril the education and training agenda that defines our single most promising tactic for shoring up the middle class.

The global marketplace both gives new fuel to America's culture of opportunity *and* allows the range of economic conditions experienced within this erstwhile middle-class country to reflect, with less and less filtering, the whole planet's disparate array of fates. A middle-class national economy, within a world of economic extremes, is a precious but unnatural thing. The policies that sustain shared prosperity will be difficult, perhaps impossible, to pursue if America's center of gravity in economic policymaking continues its precipitous shift toward the separate states. Federal officials, as a class, are certainly no wiser, more farsighted, or defter at implementation than their state counterparts. But our country as a whole remains much less subject to the flight of wealth and the influx of need than are its constituent states. Policies to shrink the underclass and solidify the middle class are thus far more sustainable at the federal level.

Fixing the federal government is an intimidating proposition in the late 1990s. The trajectory of fiscal and political trends suggests that devolution will remain the focus of politicians' promises and citizens' hopes for some time to come. But the inherent limits of a fragmented approach to national adaptation will eventually inspire America to reappraise the ascendancy of the states. Not too far into the new century we will again collect the resolve to confront together our common fate. And we will once more take up, in the two-century tradition of Americans before us, the echoing challenge of George Washington's 1796 farewell address: "Is there a doubt whether a common government can embrace so large a sphere? Let experience solve it."

Discussion Questions

1. Think of a policy issue that you are interested in. Which level of government do you think is the most appropriate one to make decisions on this issue? Why?
2. Which level of government do you think is the most democratic—federal, state, or local? Can privileged elites more easily dominate at the local level or at the national level?
3. Many people argue that justice should be the same no matter where you live and therefore the federal government should establish minimal standards of fairness on certain issues. Do you agree or disagree? Do you think the federal government should guarantee every American medical care or a minimum income?
4. One of the problems with decentralizing decision making is that some local governments have much larger tax resources than others. Many inner cities and small towns, for example, are poor. How would Eggers and O'Leary respond to this problem? What can be done about it?
5. Do you think that marriage law (divorce, child custody, and so on) should be decided by the federal government or the states? What about educational policy? Should the federal government establish national standards in education?

Suggested Readings and Internet Resources

In *From New Federalism to Devolution* (Washington, D.C.: Brookings Institution Press, 1998) Timothy Conlan argues that Nixon and Reagan actually had very different approaches to federalism. Jeffrey M. Berry, Kent E. Portney, and

Ken Thomson in *The Rebirth of Urban Democracy* (Washington, D.C.: Brookings Institution Press, 1993) present evidence that decentralizing some positions all the way to neighborhood governments makes sense. Grant McConnell, in *Private Power and American Democracy* (New York: Vintage Books, 1966), argues, in contrast, that decentralization of power leads to tyranny by elites. Probably the best book on the possibilities and limits of state economic development efforts is Paul Brace, *State Government and Economic Performance* (Baltimore, Md.: Johns Hopkins University Press, 1993). In *Tense Commandments: Federal Prescriptions and City Problems* (Washington, D.C.: Brookings Institution Press, 2002), Pietro S. Nivola argues that federal programs often tie the hands of local administrators, making city renewal even more difficult. For a comprehensive, up-to-date treatment of the issues, see Laurence J. O'Toole Jr., ed., *American Intergovernmental Relations: Foundations, Perspectives, and Issues* (Washington, D.C.: Congressional Quarterly Press, 2007). For an intriguing change of pace, read Ernest Callenbach's *Ecotopia* (New York: Bantam Books, 1975), an entertaining novel about environmentalists who take over part of the Northwest and secede from the United States.

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The James Madison Institute is a public policy research organization dedicated to promoting economic freedom, limited government, federalism, the rule of law, and individual liberty coupled with individual responsibility. The site includes a list of current books and policy studies.

The Council of State Governments
www.csg.org
The website of the Council of State Governments has information on state governments and state-level public policies.

Close Up Foundation
www.closeup.org
The Close Up Foundation Special Topic Page on federalism in the United States features an overview, a timeline, a teaching activity, and an annotated list of links to additional sources of information.