Federalism

Chapter 3

Governmental Structure

- Federalism: a political system where local government units can make final decisions regarding some governmental activities and whose existence is protected
- Unitary System: local governments are subservient to the national government

Hot Issues

- Some of the hottest issues in American politics are, at their core, disputes over federalism.
- Some hot issues involving federalism today are
  - Gay marriage
  - Medical marajuana
  - Obamacare
  - Immigration enforcement

Federal and State Powers

- In general, the federal government has power over economic issues, the military and defense.
- In general, state governments have power over social, moral, and family issues.

Positives and Negatives of Federalism

- Negative view: Federalism blocks progress and protects powerful local interests.
- Positive view: Federalism contributes to governmental strength, political flexibility, and fosters individual liberty and the development of leaders.
- Federalist #10: small political units allow all relevant interests to be heard.

Relationships Between States

- The Full Faith and Credit Clause requires states to recognize the public acts and legal judgments of other states.

- The Privileges and Immunities Clause requires states to offer out-of-state citizens the same treatment as in-state residents.

- Extradition is a process where a state must return a person when he or she has been charged with a crime in another state.

Federalism Over Time

- Dual federalism: Both national and state governments are supreme in their own spheres, which should be kept separate.
- Cooperative federalism: the state and federal spheres overlap and distinctions between them are blurred.

Categorical Grants v. Revenue Sharing

- Categorical grants are for specific purposes defined by federal law; they often require local matching funds.
  - Project grants are based on competitive applications and must be used for a specific purpose (like building an airport)
  - Formula grants are based on a formula (like the percentage who fall below the poverty level)

Devolution of Power

- Devolution occurs when the federal government gives more authority and discretion to state governments.
- Block grants (the Welfare Reform Act is an example) were devoted to general purposes with few restrictions.
- Revenue sharing requires no matching funds and can be spent on a   l purpose.

Federal Aid and Federal Control

- Fiscal federalism is the use of federal taxing and spending which impacts the states through grants-in-aid.

- Conditions of aid: tell state governments what they must do if they wish to receive grant money. Raising the drinking age to 21 is an example of this.

- Mandates: federal rules that states or localities must obey, generally have little or nothing to do with federal aid

- An unfunded mandate occurs when states must comply with a federal law but are not provided with funds. (Americans With Disabilities Act).

Federalism and the Constitution

- The Tenth Amendment states that all power not delegated to the national government, nor prohibited to the states, is reserved to the states and the people
- But, Article I, Section 8, allows Congress to make all laws necessary and proper for carrying out its enumerated powers (the Elastic Clause).

McCulloch v. Maryland

- Could Congress charter a national bank? Yes, even though this power is not explicitly in the Constitution.
- Could states tax the national bank? No, because "the power to tax is the power to destroy."

Increasing National Power

- In *Gibbons v. Ogden* (1824), the Court defined commerce broadly, to include all "intercourse" between states.
- In *Heart of Atlanta Motel v. US*, which is not technically a federalism case, the Court upheld the Civil Rights Act of 1964 using the Commerce Clause. This greatly expanded federal power.

What is left of state power?

- By the last quarter of the twentieth century, many scholars thought that the Tenth Amendment had little relevance.
- Then, along came the *Lopez* case...