

# Political Science 17.20

## Introduction to American Politics

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### **Federalism**

Lecture 11 (March 14, 2013)

**1** Origins, Justification, and Critiques

**2** Federalism in Practice

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**2** Federalism in Practice

# Origins of Federalism

- **Federalism:** division of authority between two or more levels of government (contrast with a **confederation** or **unitary system**)
- Federalism was a *fait accomplis* before the Constitution.
- Protection of state/local power necessary for Constitution to be adopted (Senate, enumerated powers, etc.)
- Centrality of **slavery** and its legacy
- **Dual Federalism:** National and subnational governments have clearly divided spheres of authority.
- *Federalist 45:* “The powers [of] the Federal Government are few and defined. Those [of] the State Governments are numerous and indefinite.”

# Defenses of Federalism

The states as **laboratories of democracy** (Louis Brandeis):

*a state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.*

**Competitive federalism** (James Buchanan—not the president):

- Federalism as **market** of competing governments
  - Efficiency, Tiebout sorting
- States' rights must be credible commitment.
- Threat of exit (secession) is crucial.
- Also requires national government to prevent barriers.

(Note the influence of philosophical **pragmatism**.)

# Critiques of Federalism

- Tyranny of local majorities
- Inability to tackle common problems
- Race to the bottom
- Negative externalities

# Outline

1 Origins, Justification, and Critiques

2 Federalism in Practice

# Evolution of Modern Federalism

- 17th Amendment (direct election of senators)
- Modern industrial society provoked national regulation
- Constitutional revolution of the New Deal
- Association with racism discredited states' rights
- Expansion of federal tax base → control of money
- The New Federalism: conservative effort to roll back expansive interpretation of national power, esp. Commerce

# Mechanisms of Federal Control

- Carrots (matching grants, etc.)
- Sticks (mandates, regulation)
- Cross-cutting requirements (e.g., anti-discrimination, anti-pollution)
- Crossover sanction (e.g., highway funds and drinking age)
- Dual federalism:
  - authority **shared** (often contested → Kettl on disaster relief)
  - federal programs implemented by states and localities (employment growth faster than federal gov't)

# Problems with Federalism

## Cutthroat competition:

- Trade deals under the Articles of Confederation
- Competition to attract businesses

## Race to the Bottom:

- Welfare payments
- Labor standards
- Environmental regulation

## The California Effect:

- Fuel efficiency standards

# Policy Preferences vs. Constitutional Principles

## Medical marijuana:

- State legalization vs. national prohibition
- *Gonzales v. Raich* → Scalia concurrence

## Gay marriage:

- State marriage laws vs. national Defense of Marriage Act
- *Windsor v. United States* (pending before Supreme Court)

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