

INTERGOVERNMENTAL
MANAGEMENT *for the*
TWENTY-FIRST CENTURY

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editors

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UPDATING THEORIES OF AMERICAN FEDERALISM

RICHARD P. NATHAN

Modern federalism was born in America.¹ Arguably, it was born of political necessity. It was not a bold new invention so much as what James Madison called a “composition,” taking into account the existence of thirteen colonies (now states) that were unlikely to look kindly at their abolition and replacement with a national government.² We cannot know what the founders’ motives were. Perhaps they liked this new blend whereby citizens are citizens of two governments, national and state. We can be pretty sure, however, that James Madison and Alexander Hamilton were more interested in unification than preservation—that is, more interested in the establishment of a national government than in the preservation of the powers and perquisites of the colonial governments, some of which (Virginia most of all) had a vast expanse of land and a strong standing army, while others were small and sparsely populated. Later, in 1798, outraged by John Adams’ alien and sedition laws, Madison turned against his own invention when he authored the Virginia Resolutions, arguing for the state’s right to secede from the new union.

The earliest justifications for the federal form were grounded in a central premise of James Madison (although not original) about the need for countervailing mechanisms to prevent the rise of overreaching power holders,

surely a worthy concern. *The Federalist Papers*, which he wrote with Alexander Hamilton and John Jay (like modern op-ed articles) to advance the ratification of the U.S. Constitution, emphasized the idea that the three branches of the national government and the division of power between it and the states would prevent such excesses. States would check and balance out the authority of the national government. But they have done more than this. The activist role of the states over time has ratcheted up governmental power and responsibility in the society and the economy. In examining this proposition, the perspective of this chapter is historical.

Historical Perspective

In the nineteenth century, the role of government in the society and economy of the United States was limited except in wartime and for some, but not extensive, internal improvements. The dominant view of the relationship between the nation and the states was that of dual federalism, stipulating a discrete division of power and responsibilities between them. This division was seen in presidential actions (vetoes in some instances, and a lack of initiative in others) and in Supreme Court decisions that prohibited national government incursions into domestic policy domains on the grounds that such actions would invade state sovereignty. John Tyler was the first president to use the veto for the purpose of “maintaining the structural division of authority between the states and the federal government.”³ Tyler vetoed two national bank bills (1841) and two provisional tariff bills (1842) because he believed each would produce a chain reaction that would obscure the line between state and federal power. He also vetoed a bill to appropriate \$340,000 for improvements to eastern harbors (1844), a proposal he viewed as outside the bounds of congressional commerce power and thus a threat to state sovereignty.⁴ But that was then. What about now?

In the mid-twentieth century, lines became blurred. Practice, as well as academic theories of American federalism, moved from dualism to a dynamic concept as advanced in the writing of the political scientist Morton Grodzins, who emphasized the complexity of federalism, not as a layer cake but as a marble cake with “an inseparable mixture of different colored ingredients.”⁵ This viewpoint was advanced by some scholars in terms that depicted American federalism as inchoate and complicated—one account describes it as “bankrupt” and another as indecipherable.⁶ Scholars in this camp saw the federal-state relationship as weakening over time and viewed American federalism as a way station on the road to a unitary form. The

political scientist Luther Gulick said in the Great Depression years, “The American state is finished. I do not predict that the states will go, but affirm they have gone,” and Harold Laski wrote about “the obsolescence of federalism.” Jon C. Teaford in his excellent book *The Rise of the States* quotes former U.S. senator Everett Dirksen of Illinois (a noted phrasemaker), saying he was concerned that if prevailing trends continued, “the only people interested in state boundaries [would] be Rand-McNally.”⁷

Not everyone shares this view now—or did then. Other scholars challenge the characterization of U.S. federalism that highlights its constant changeability and the resulting problem that nothing is clear, along with the prognosis that federalism is on the way out.

Writing at the same time as Grodzins, in the 1960s, the British political scientist K. C. Wheare said, “The test which I apply for federal government is simply this. Does a system of government embody predominantly a division of powers between general and regional authorities, each of which, in its own sphere, is co-ordinate with the others and independent of them?” In addition, the central and regional governments must have “exclusive control” in some areas of activity.⁸ The view of the American political scientist Arthur W. Macmahon is similar: “The matters entrusted to the constituent governments in a federal system (whether their powers are residual or delegated) must be substantial and not trivial.”⁹

My position is that states have played a strong and leading role in responding to domestic needs, that they still do, and that their role has been crucial for the development of national domestic policies and programs. My view is less legalistic and more nuanced than Wheare’s and Macmahon’s and at the same time more positive about the importance of the state role in American federalism than those of Morton Grodzins, Luther Gulick, and Harold Laski.

A useful insight as the starting point for this interpretation is found in the writing of Richard Neustadt on the horizontal dimension of American government, as opposed to its vertical federalism dimension.¹⁰ Neustadt portrays the U.S. national government, with its three branches, as based not so much on the separation of powers as on the concept of separate institutions sharing power.¹¹ In the same way, the national government and the states share power. Indeed, they share power in complex ways. There is no getting around this.

Responsibilities for governmental functions can be shared in three major ways, through policymaking, finance, and administration.¹² Typical of many major functional areas of U.S. domestic public affairs are intergovernmental arrangements whereby the national government has a role in making policy and financing it but administrative responsibility is lodged with the states,

which also share in policymaking and financing. Over time, the process by which these sharing arrangements are shifted and shaped has expanded the role of government in the U.S. economy and society. This is because the American brand of federalism has produced surges of governmental growth and activism on the part of both the national government and the states. Historically, these surges have had a pro-government, growth-inducing effect.

The historical approach to the study of American federalism taken in this chapter emphasizes assessments of the impact and sustainability of major changes in the functions of the national government and state governments. This approach can be contrasted with approaches that are more legalistic, emphasizing changes in laws and regulations within major functional areas of government. The challenge for scholars of American federalism is to evaluate both types of data—broad gauged and more specific—in terms of their degree of influence on the development of governmental powers and responsibilities over time.

The United States is not alone among Western democracies in having expanded the role of government. Modern industrial democracies have mixed economies; citizens have become increasingly dependent on a wide range of public institutions for the provision of services—education, poverty relief, public health and the provision of health care, workplace protections and supports, the regulation of markets, transportation, environmental protection, parks and recreation—the list goes on, encompassing many and diverse services that are heavily influenced by state governments and the local governments they charter and can oversee.

In periods when support for governmental activism was on the wane in Washington and in the country as a whole, the existence of a state-level counterforce kept the pressure on for public sector growth. Innovations, particularly those of progressive states, have been tested, refined, debugged, and often diffused across the country. In some cases, they have morphed into national policies and programs. The oscillation of surges of governmental activism, sometimes from the center and sometimes from the periphery, has impelled the growth of governmental power in a way that would not otherwise have occurred in the individualistic political culture of America.

The European pattern of a generally steadier growth path for public services and the welfare state differs from the choppy pattern of growth in the American setting. Social policies and programs in the United States have grown in ways that, according to Theda Skocpol, are often overlooked and misunderstood in characterizing the nation as the Wild West of free enterprise

and limited government. Skocpol points out that from 1880 to 1929, forty-four states adopted workers' compensation laws, six adopted old-age pensions, and forty-four adopted mothers' pensions.¹³ The same is true for the regulatory role and activities of state governments in the nation's industrializing economy. Regulation of railroads, public utilities, insurance, and securities corporations were developed over time by leading states, often diffused to other states, and in some cases morphing into national government responsibilities as interconnectedness in the economy increased.¹⁴ Referring to roughly the same period as Skocpol, Allan Nevins and Henry Steele Commager write that "the first great battles of the reform movement were fought out in the states."¹⁵ Examples of state initiatives in areas of domestic policy at the turn of the century include compulsory school attendance, vaccination laws, the creation of state boards of education, reforms of political processes, a growing role for state boards of charity, child labor laws, and state regulatory policies in licensing and zoning.

In the 1920s, when the country was "keeping cool with Coolidge," states were the source of progressive initiatives like mothers' pensions (which Skocpol highlights), unemployment insurance, public assistance, and workmen's compensation. James T. Patterson notes that states "preceded the federal government in regulating large corporations, establishing minimum labor standards, and stimulating economic development." He adds that "the most remarkable development in state government in the 1920s was the increase in spending."¹⁶ In this way and others, state initiatives planted the seeds of Franklin D. Roosevelt's New Deal.

Fast-forward to the 1980s, when the pendulum of national social policy swung away from Lyndon Johnson's Great Society. Again, there was a surge in state-level activism, in this case in response to President Ronald Reagan's 1981–82 cuts in federal domestic spending. States reshaped their counterpart programs to reflect their priorities, increased the funding of programs in areas in which the federal government became less active, and assumed more control over the activities of local governments. In doing so, states expanded their influence, both *vis-à-vis* the federal government and in their relationships with local governments and nonprofit organizations.¹⁷ In much the same way, Barry Rabe has documented how state governments developed—and continue to advance—innovative environmental policies, forming coalitions that cut across regions and partisan divides to combat global warming. In doing so, they have assumed a leadership role in a field that conventionally has been regarded as assigned to the federal government.¹⁸

The New, New Federalism

At the present time, liberals are on the march at the state level. Federalism is being discovered—some would say rediscovered—by liberals. Representative Barney Frank (D.-Mass.) was compared to states' righter and former U.S. senator Strom Thurmond when he argued that the states (with Massachusetts out front) should be the arbiters of same-sex marriage.¹⁹ Frank is not alone. Other liberals see the states, particularly those with liberal leaders, as the appropriate governments to deal with domestic hard challenges. Following are some examples.

On several occasions the federal government has tried strategies to halt the growth of the Medicaid program, which aids the elderly, the disabled, and poor families. But since the program has such a broad constituency of recipient groups (not just the poor) and multiple provider interests, state governments have fought back (so far quite successfully) to shield Medicaid from Washington's retrenchment efforts.

On a broader canvas, state governments are actively reforming health policy to expand coverage, control costs, advance preventive strategies, rationalize decisionmaking about facilities, and institutionalize new information and management systems. This quiet revolution is not unusual in American public policymaking: Health reform is happening while we are talking about it. Whatever national reforms are adopted in the future, there is much to be learned from what states have been doing for the past five years.

Cleaning up the environment is a policy area in which many states are ahead of the curve compared with the federal government. This is demonstrated, for example, by the nine-state northeastern accord to freeze power plant emissions and similar regional efforts under way in California, Washington, and Oregon.²⁰

Activists in many states are pulling every lever—on the part of the courts, the executive branch, and the legislature—to distribute school funding in ways that provide more aid to poor core-city and rural communities. States are also leading the way in setting up preschool programs.

States have also intervened in the provision of public infrastructure. Although the federal highway act is a big factor in the transportation field, economic development interests at the state level on a general basis view state governments as their best avenues and instruments for providing public facilities. Some of the activism to do this is old-fashioned pork barreling, but this does not diminish its importance. States often play a strong role in providing facilities for economic development as well as for other public services, as

advocated, for example, by supporters of K–12 and higher education, social services, libraries, the arts, outdoor recreation, parks, and the like.

The same point applies to regulatory matters. The minimum wage is an example of an area in which states are out front nationally. According to a *USA Today* survey, seventeen states covering 45 percent of the national population have set minimum wages above the federal rate of \$5.15 an hour.²¹ Following California's lead in adopting a \$3 billion bond issue to support stem cell research, other states have joined in, notably Illinois, Connecticut, and New Jersey.²²

Some policy domains are not good issues for liberals to pursue nationally. Sex education is one of these—the expectation being that currently national action would cater to the intense concerns of religious fundamentalists and other conservative groups. The debate in 2005 on the Terri Schiavo case in Florida is one example of a state favoring a more liberal policy than that of President George W. Bush—and, in this case, also of its governor, the president's brother Jeb Bush. Although not a likely area for federal policymaking, teaching about evolution is yet another example of a sensitive subject that from a liberal point of view is best left to the states. In this way, large and small policies move around in American federalism. There is the case, for example, of a bill in Congress to combat the use of ingredients in cold medicines that can be used to make methamphetamine. Congressional sponsors of the legislation sided with Oregon, which “wanted to be tougher than the federal law.”²³ Similarly, in an Oregon case argued before the U.S. Supreme Court, the question was whether the U.S. attorney general (John Ashcroft in 2001) could abrogate a state law permitting the administration of drugs to assist suicides. Somewhat surprisingly, the *Wall Street Journal* sided with the state on this issue in an editorial headlined, “The New, New Federalism.”²⁴

There also has been debate in the courts to rein in state policies permitting the use of marijuana by patients suffering from cancer and other illnesses. Similar essentially liberal issues involving state policies have arisen in the field of bioethics and on matters concerning the efforts of federal agencies to weaken state constitutional restrictions on the use of public funds to support faith-based social programs.²⁵ Although it is not so much a liberal versus conservative issue, the earnestness of state opposition to federal rules and requirements under the No Child Left Behind Act is evidence of state governments' feistiness in recent years in asserting their prerogatives.²⁶

Franklin Foer, in the *New York Times Book Review*, said recently that this liberal version of new federalism “may look like a desperate reaction on the part of some liberals to the conservatives' grip on Washington. But in fact the

well-known liberal liking for programs at the national level has long coexisted alongside a quieter tradition of principled federalism—skeptical of distant bureaucracies and celebratory of local policy experimentation.²⁷ In similar terms, Andrew Sullivan notes that “the U.S. Constitution was devised not as a means to avoid social and cultural polarization, but as a way to manage it without splitting the country apart.” He adds, “And it says a huge amount about our contemporary amnesia with regard to the benefits of federalism that this should now be seen as some sort of revelation.”²⁸ Summing up this literature, Paul Glastri in the *Washington Monthly* asks, “Why shouldn’t the Democrats become the party of federalism?”²⁹

Observations by liberals on the benefits of the federal form have their counterpart in contemporary writings from the right. Michael Greve, of the American Enterprise Institute, has advanced a strident theory of American federalism as “inverted” in the way it has produced governmental growth and the accretion of governmental powers and responsibilities: “In short, we have not one but two federalism problems. The first, well-known problem is federal overreach and meddling in local affairs that ‘can never be desirable cares of general jurisdiction.’ The second, poorly understood but increasingly virulent federalism problem is state interference with sister-states in national affairs. My shorthand for the concurrent emergence of those problems is ‘constitutional inversion.’” Greve lambastes the rise of what he characterizes as “intergovernmental cartels,” consisting of public agencies and unions, interest groups, and the providers of public service, that in his view have powered this constitutional inversion. He goes so far as to say that because federalism is a Leviathan force (his terminology), “we might be better off with a wholly national government.”³⁰

Similarly, Steven Malanga of the Manhattan Institute sees a problem for American government in the role and activities of “coalitions of tax eaters.”³¹

One group stands out as increasingly powerful and not quite in step with the old politics on the Left: those who benefit from an expanding government, including public-sector employees, workers at organizations that survive off government money, and those who receive government benefits. In cities, especially, this group has seized power from the taxpayers, as the vast expansion of the public sector that has taken place since the beginning of the War on Poverty has finally reached a tipping point.³²

Malanga’s diagnosis should be familiar to readers of this book. In the literature of political science, the concept of “iron triangles” has had salience for a

long time. The term refers to coalitions of legislators, interest groups, and public agencies that pressure for and advance their governmental interests. President Dwight Eisenhower, in his farewell speech, spoke in similar terms about the dangers of the “military industrial complex.”³³ This characterization resembles both Greve’s intergovernmental cartels and Malanga’s coalitions of tax eaters.

It is an oversimplification to depict such functional-area power wielders as operating at the state or national levels and either pulling for more governmental action from the center or pushing for it from the states. Such actors are better viewed as intergovernmental. They operate at both the federal and state level, and in many large local governments as well. They combine national, state, and local governmental and nongovernmental actors. Their strongest influence, whether it is exercised in Washington or at the state and local levels, depends on the values of the times. In liberal periods, liberal activists are likely to view the center as their best bet for getting things done—as do conservative groups in conservative times. It is not federalism these coalitions care about. It is advancing their interests. A commenter on an earlier paper referred to this as “venue shopping.”³⁴ Mathematically, it is easier to advance one’s purpose from the center rather than from fifty or more places as venues for political action, but it is not always possible to do so.

In the field of social policy, the result of this pattern of periodic surges is that programs have grown. The wide-ranging pluralism of actors and interest produces governmental untidiness, fragmentation, and inefficiencies. But, as James K. Galbraith has observed, the cumulative effect is that for many areas of social government (health, housing, child care, education, aid for the aged and disabled, drug treatment, and other social services), the American social safety net is now much more extensive than it is perceived to be.³⁵ It is a common mistake for observers to focus so heavily on the pulling and hauling of interests in the political process in Washington that they fail to appreciate the size and scope of these institutional structures.³⁶ Conservative actions by states can hold back social policy. For example, states in which antiabortion forces are powerful, or where there is a strong resistance to clamping down on immigration or advancing affirmative action or aiding the poor, can constrain national policy activism. The Sagebrush Rebellion in the American West is an example in the conservation field of one way resistance to central government policymaking can be a strong force on the part of state governments.³⁷ But over time this has not been the predominant effect of the state government role in American federalism. The unabashedly opportunistic and dynamic character of American federalism has abetted governmental growth.

Concluding Comment

The theory of this chapter, that American federalism has had a strong and lasting influence in ratcheting up governmental power and influence, focuses on substantive policy actions as the units of analysis. This theory can be contrasted to the more nationally centered theory of coercive federalism, which places relatively more emphasis on laws and regulations, particularly legal preemptions of the states by the national government.³⁸ It is generally less bullish than the theory advanced here, which emphasizes the activist, pro-government role of the American states. Such differences of interpretation in the academic literature can never be fully and definitively resolved. The ratcheting-up theory of U.S. federalism advanced here is decidedly state focused. It reverses the conventional politics that conservatives (often applying to Republicans) should like and support American federalism and liberals (represented by pro-government Democrats) should look more kindly on it than they typically do. This is not to deny that when expansionist views about government prevail in the society, liberals can feast at the federal government table. But over time and on the whole, I conclude that it is not unreasonable for liberals to champion federalism and conservatives to regard it as a Leviathan force.

Notes

1. This chapter is inspired by the work of Samuel H. Beer, a teacher to many of the contributors to this volume, to whom this book is dedicated. See Samuel H. Beer, "The Modernization of American Federalism," *Publius: The Journal of Federalism* 3 (Fall 1973): 49–95; Samuel H. Beer, "Federalism, Nationalism, and Democracy in America," *American Political Science Review* 72 (March 1978): 9–21; and Samuel H. Beer, *To Make a Nation: The Rediscovery of American Federalism* (Harvard University Press, 1993).

2. James Madison, *Federalist* No. 39, in *The Federalist Papers*, by Alexander Hamilton, James Madison, and John Jay (New York: New American Library, 1961), p. 246.

3. J. Richard Broughton, "Rethinking the Presidential Veto," *Harvard Journal on Legislation* 42 (Winter 2005): 123–24 (www.law.harvard.edu/students/orgs/jol/vol42_1/broughton.php).

4. *Ibid.*

5. Morton Grodzins, "The Federal System," in *Goals for Americans: The Report of the President's Commission on National Goals* (Columbia University Press, 1960), pp. 265–82, 265.

6. Michael D. Reagan and John G. Sanzone, *The New Federalism* (Oxford University Press, 1981), p. 19; Richard H. Leach, *American Federalism* (New York: W. W. Norton, 1970), p. 17 ("Precisely what 'federalism' means is now and never has been clear").

7. Gulick, Laski, and Dirksen quoted in Jon C. Teaford, *The Rise of the States* (Johns Hopkins University Press, 2002), p. 1. Although Teaford is cited here, his view of the role of the states is not consonant with that of other scholars cited in this chapter. Rather than slumbering, he says, in the twentieth century the states “sprang to life under a new breed of bright and vigorous governors,” and they have been “vital actors” from the 1890s onward (p. 5).

8. K. C. Wheare, *Federal Government*, 4th ed. (Oxford University Press, 1964), pp. 33, 4–5.

9. Arthur W. Macmahon, “The Problem of Federalism: Survey,” in *Federalism Mature and Emergent*, edited by Arthur W. Macmahon (New York: Doubleday, 1955), pp. 3–27, 4.

10. This point was suggested by Samuel H. Beer.

11. Richard E. Neustadt, *Presidential Power and the Modern President: The Politics of Leadership from Roosevelt to Reagan* (New York: Free Press, 1990).

12. Richard P. Nathan, “State and Local Governments under Federal Grants: Toward a Predictive Theory,” *Political Science Quarterly* 98 (Spring 1983): 47–57.

13. Theda Skocpol, *Protecting Soldiers and Mothers: The Political Origins of Social Policy in the United States* (Harvard University Press, 1992), p. 9, table 1.

14. Thomas K. McGraw, *Prophets of Regulation* (Harvard University Press, 1984).

15. Allan Nevins and Henry Steele Commager, *A Pocket History of the United States* (New York: Washington Square Press, 1981), pp. 346–47.

16. James T. Patterson, *The New Deal and the States: Federalism in Transition* (Princeton University Press, 1969), pp. 4, 7.

17. Richard P. Nathan and Fred C. Doolittle, “The Untold Story of Reagan’s New Federalism,” *Public Interest*, no. 77 (Fall 1984): 96–106. See also Richard P. Nathan and others, *Reagan and the States* (Princeton University Press, 1987).

18. Barry G. Rabe, *Statehouse and Greenhouse: The Emerging Politics of American Climate Change* (Brookings, 2004). See also Ronald Brownstein, “A Wave of Activism in States May Signal a Surge Nationwide,” *Los Angeles Times*, December 5, 2005, p. A9.

19. Franklin Foer, “The Joy of Federalism,” *New York Times Book Review*, March 6, 2005, pp. 12–13.

20. Anthony DePalma, “9 States in Plan to Cut Emissions by Power Plants,” *New York Times*, August 24, 2005, p. A1.

21. Dennis Cauchan, “States Say \$5.15 an Hour Too Little,” *USA Today*, May 30, 2005, p. A1.

22. James W. Fossett, “Federalism by Necessity: State and Private Support for Human Embryonic Stem Cell Research,” policy brief (Albany, N.Y.: Rockefeller Institute of Government, August 9, 2007).

23. Jim Barnett, “Federal Meth,” *Oregonian*, July 29, 2005, p. 1.

24. “The New, New Federalism,” *Wall Street Journal*, October 5, 2005, p. A20. See also Linda Greenhouse, “Justices Explore U.S. Authority over States on Assisted Suicide,” *New York Times*, October 6, 2005, p. A1.

25. Glenn McGee, *Beyond Genetics: Putting the Power of DNA to Work in Your Life*

(New York: HarperCollins, 2003); Anne Farris, Richard P. Nathan, and David J. Wright, *The Expanding Administrative Presidency: George W. Bush and the Faith-Based Initiative* (Albany, N.Y.: Rockefeller Institute Press, 2004).

26. Richard P. Nathan, Thomas L. Gais, and James W. Fossett, "Bush Federalism: Is There One, What Is It, and How Does It Differ?" paper prepared for the Association for Public Policy Analysis and Management annual research conference, Washington, D.C., November 7, 2003. It is worth noting of federal preemptory actions that it is one thing to take them, another to make them stick.

27. Foer, "Joy of Federalism."

28. Andrew Sullivan, "Federal Express," *New Republic* 231 (December 12, 2004): 6.

29. Paul Glastris, "What Now? A Discussion on the Way Forward for the Democrats," *Washington Monthly* 36 (December 2004): 20–24.

30. Michael S. Greve, "Madison with a Minus Sign," American Enterprise Institute (<http://federalismproject.org/depository/Madisonminusign.pdf>), pp. 1–2, 3; Greve cites the quote, "can never be desirable cares of general jurisdiction," to Alexander Hamilton, *Federalist* No. 17, in *The Federalist Papers*, by Alexander Hamilton, James Madison, and John Jay, edited by George W. Carey and James McClellan (Indianapolis: Liberty Fund, 2001), p. 81.

31. Steven Malanga, "The Real Engine of Blue America," *City Journal* 15 (Winter 2005): 66–73 (www.freerepublic.com/focus/f-news/1319836/posts), p. 67.

32. *Ibid.*, p. 1.

33. Dwight D. Eisenhower, "Farewell Speech," January 17, 1961 (www.eisenhower.archives.gov/speeches/farewell_address.html).

34. Donald W. Moran, e-mail message, November 28, 2005, in response to Richard P. Nathan, "There Will Always Be a New Federalism," paper prepared for the American Enterprise Institute Federalism Project, December 14, 2005. On this subject, see E. E. Schattschneider, *The Semisovereign People: A Realist's View of Democracy in America* (New York: Holt, Rinehart, and Winston, 1960).

35. James K. Galbraith, "What Is the American Model Really About? Soft Budgets and the Keynesian Devolution," Public Policy Brief 72 (Levy Economics Institute of Bard College, June 2003).

36. Ron Haskins, "The Governors and the Development of American Social Policy," in *A Legacy of Innovation: Governors and Public Policy*, edited by Ethan G. Sribnick (University of Pennsylvania Press, 2008, forthcoming), emphasizes the multiplicity of policies and programs that aid the poor and needy.

37. This movement originated in western states, especially Nevada, and gained momentum beginning in the 1960s. Nevada Assembly Bill 413, entitled the Sagebrush Rebellion, passed the legislature in 1979. It called for the establishment of a review board and state control of lands within the state managed by the U.S. Bureau of Land Management. Other western states passed similar bills. The movement became prominent nationally during Ronald Reagan's presidential campaign in 1980: once elected, he pledged, he would work toward a "sagebrush solution."

38. This theory is highlighted in Paul Posner, "The Politics of Coercive Federalism in the Bush Era," *Publius: The Journal of Federalism* 37 (Summer 2007): 390–411; and Joseph F. Zimmerman, "Congressional Preemption during the George W. Bush Administration," *Publius: The Journal of Federalism* 37 (Summer 2007): 432–52. Both articles are based on a symposium on federalism developments during the George W. Bush presidency. See also John Kincaid, "From Cooperative to Coercive Federalism," *Annals of the American Academy of Political and Social Science* 509 (May 1990): 139–52.