

Reconceiving Local Government to Limit Leviathan

by Stephen Lazarus

“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” With the Tenth Amendment, the Founding Fathers reserved for state governments and their citizens those powers not explicitly granted to the federal government by the Constitution. They established federalism as the first principle of limited government in the young republic to ensure that citizens could govern their affairs without undue interference by the newly-created national government. Have relations between the federal and state and local levels of government unfolded as Jefferson, Madison, and other Founders intended with their constitutional design?

No, Dr. Robert Bish suggests in his contribution to *Limiting Leviathan*, a book to be released soon by Public Interest Institute. Bish argues that it was Hamilton and Madison who first observed in the *Federalist Papers* that this constitutional design was a vulnerable one. They write: “A world at war necessitates a progressive direction towards monarchy.”

The division of powers they established between the national and state and local governments has in fact been eroded in a succession of wars, such as the Cold War, the “war on poverty,” and the “war on drugs,” fought by an activist national government. These wars have spawned policies which have centralized power at the national level. “A mindset focused on winning wars,” Bish explains, “is not conducive to maintaining checks and balances in a federal system.” Constitutional limits on the power of the federal government become the first casualty in a form of politics bent on gaining victory at all costs over a myriad of social and political ills. Over time, Americans and their leaders (and most notably judges) simply forgot the intent of the Founding Fathers as expressed in the Tenth Amendment, and began to look to the federal government to solve all our problems.

To reverse this trend, Bish encourages leaders in state and local governments to combine their understanding of federalism with lessons learned from free-market economics. Under federalism, state and local governments do not surrender their powers to the national government. Three levels of government exist which cooperate and even compete with each other, when they share responsibility over a given area. With welfare reform, for example, each state today designs its own welfare programs in cooperation with local municipalities, rather than following a one-size fits-all policy from Washington. This prevents the federal government from monopolizing the provision of government services.

Federalism also allows state and local governments to compete to see who can most efficiently provide services demanded by the public. How can this competition between governments be increased? Bish advocates reconceiving the role of local governments in a federalist system as a consumer co-op. "Consumer cooperatives," he explains, "are corporations where members (shareholders) voluntarily organize themselves to achieve a benefit for themselves." These corporations use public and private means to provide their taxpaying members public services as diverse as schooling, mass transit, and management of waterways. Larger co-ops might provide a whole range of services, while others might specialize in only a few areas of competence.

Citizens look to local government to provide certain basic services such as fire protection and waste management. This organization of citizen-consumers may take many different forms and cross traditional geographical boundaries. Many cities today choose to contract out to private firms the actual production of these services. In this case, the municipality coordinates the provision of services through an agreement with an agent who may service many other consumer co-ops. In other cases, local governments are actually selling services they produce to other municipalities. He cites the example of one suburban community which regularly receives bids from several area police forces who compete to provide law enforcement for the community. Service providers know that they must measure up, or the consumer co-op they serve can cancel the contract which allows them to supply a public service. Infusing competition into the system through these associations is the key to delivering public services more efficiently, Bish argues. "When these contracts facilitate adjustment to more efficient sizes of production and are undertaken through competitive processes," he argues, "the citizens of both the purchasing and selling governments benefit."

Thinking of local governments as consumer co-ops, Bish suggests, can help restore federalism in our day. Consumer co-ops break up potential monopolies by the federal government on the provision of public service. They distribute power across a field of competing service providers. By attempting to create more arrangements at the local level where citizens have a greater say in the services they pay for, local governments conceived as consumer co-ops help reduce the size of the federal Leviathan and restore limited government.

This Institute Brief is one in a series on the chapters of an upcoming book, Limiting Leviathan, edited by Dr. Don Racheter, Executive Director of Public Interest Institute, and Dr. Richard Wagner, Economics Professor at George Mason University and Chairman of the Institute's Academic Advisory Board. Limiting Leviathan makes a case for limited government and discusses the types of limitations on government that are appropriate and necessary.

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This summary of Dr. Bish's chapter was written by Stephen Lazarus, a Research Analyst with Public Interest Institute.

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