



## The Rise and Fall, and Rise? of Federalism

by Arlan DeBlieck

Federalism is a system of government that creates competition in government through “opposite and rival” centers of power in order to protect liberty and property from the tyrannical power of the majority. Democracy dictates that the majority rules. However, democracy does nothing to protect minorities and individuals from the abuses of the majority in power. Our Founders, through the Constitution, established a competitive system of government that protected the property and liberty of those not holding power.

In “Liberty, Markets, and Federalism,” his chapter in *FEDERALIST GOVERNMENT IN PRINCIPLE AND PRACTICE*, Dr. Thomas Dye explains the need for federalism, how the national government has taken more power than was originally given it in the Constitution, and how federalism, through competition between the states, could improve the lives of all Americans. He describes a system where the well-being of the citizenry is again the responsibility of the states, and the national government becomes a clearinghouse of information for the states.

“Enlightened statesmen will not always be at the helm” (Federalist Papers, Number 10). After the war with Great Britain and King George, our Forefathers were unable, and unwilling, to trust individuals to rule with benevolence. The only peaceful means of protecting the liberties and property of everyone, and limiting government and its inherent abuses, was to create competition in government. Without a system of competition between rivals in government, the majority governing would use the power of government to keep power and take the liberty and property of the minorities out of power.

Like free markets, where individuals pursuing their own self-interest promote general economic well-being, our Founders believed government organized with individuals pursuing their own self-interest would promote the general well-being of society. Under federalism, competition among multiple governments would create multiple packages of public policies enabling people to choose packages that most closely fit their preferences. With a “unitary” government, people get “one-size-fits-all.”

The vision of our Forefathers faded by the twentieth century. With a focus on promoting a national economy brought on by the Industrial Revolution, the passage of the Sixteenth Amendment establishing the income tax, two world wars, and the Great Depression, federalism has virtually passed from existence. Though the Constitution clearly defines the few powers granted the national government, and gives states many and indefinite powers, states’ powers have been eroded. By 1965, the federal government had defined “national goals,” and nearly all problems facing Americans became national problems. The power grab by the federal government was upheld in the courts with such decisions as *Garcia* (1965) wherein the Supreme Court ruled that the Tenth Amendment’s Reserve Powers Clause was not sufficient to prevent Congress from directly legislating on state affairs. The Court held that states were limited to only electing the President and Congress. Competition between states, and competition between the states and the federal government, have been replaced by a seamless bureaucratic system of centralized federal power.

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The greatest threat to federalism emanates from the federal grant system. It is a system used for extortion. In return for specific cooperation in enforcing national mandates, the federal government disburses back to the states some of the money it collects through its taxing powers from the citizens of the states. Instead of challenging the federal government on its meddling in states' affairs, states fight the federal government over "unfunded mandates," signaling their recognition of federal control over them.

This results in an oversupply of public goods. The main incentive of this system is to provide more public goods than would otherwise be supplied if the citizenry had to pay the full cost of the goods. The expense of the goods is divided over the entire nation, even though only a relative few enjoy the use of the goods. This reduces the costs of the goods to those who receive them, separating what people want from what they would be willing to pay if they bore the true costs of the goods. At distorted low prices, people will naturally want more.

Federal intervention in states' affairs is generally made on the grounds of policy uniformity. Uniformity runs counter to federalism. The emphasis on redistribution and equality of results depends on uniformity. In order for uniformity to exist, there needs to be a hierarchy to collect wealth for redistribution, and coordinate its use to obtain equality of results. Federalism depends on individualism, competition, and equality of opportunity. The American people have become dependent on uniformity, therefore perpetuating the demise of federalism.

Finally, Dr. Dye argues that a key to returning to a federalist system of government is to transform the federal government into a clearinghouse of information. Currently, the federal government provides information on outcomes, but fails to provide adequate information on results. It reports on the amount of money spent on education, but fails to provide evaluative information on whether students can actually read, write, or do arithmetic.

Though people are mobile and able to move to states with public policy choices closest to their own preferences, it is the movement of investment capital that will inevitably force states into better performance. Capital is very mobile in America. Comparative information helps identify choices, and with many choices, investment capital will migrate to those choices that offer the best return. This in turn places pressure on states to compete for those investment dollars, resulting in better performance.

Federalism depends on a system of competition between "opposites and rivals" in government, and between governments, to prevent the loss of liberty and property. Competition can occur only if there are rivals and more than one government. Only by returning power to our state governments, providing evaluative information on policy performance, and promoting free-market competition in providing public goods will we ever revive federalism to its former glory and role in protecting our liberty.

*This Institute Brief is one in a series on the chapters of a just published book, FEDERALIST GOVERNMENT IN PRINCIPLE AND PRACTICE, edited by Dr. Don Racheter, President of Public Interest Institute, and Dr. Richard Wagner, Economics Professor at George Mason University and Chairman of the Institute's Academic Advisory Board. FEDERALIST GOVERNMENT IN PRINCIPLE AND PRACTICE looks at the relationship between federalism and liberty and explores the substantive practice of federalism, particularly the centralizing processes at work and the opportunities for decentralization.*

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