Political Science 17.20
Introduction to American Politics

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**Federalism**
Lecture 11 (March 14, 2013)
Outline

1 Origins, Justification, and Critiques

2 Federalism in Practice
Outline

1. Origins, Justification, and Critiques

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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