This book project answers three central questions about federalism and the minimum wage. First, which factors have contributed to the gradual shift in the locus of minimum wage policy from the states to Capitol Hill and back to the states over the past hundred years? Second, to what extent has federalism shaped the development of U.S. minimum wage policy, including not only the basic minimum wage but also indexation, subminimum wages, the tip credit, and state preemption of local minimum wage policies? Third, what are the implications—both the promise and the perils—of a state-centered approach to minimum wage policy?

The book is based on a combination of archival research, quantitative analysis, and case studies. It is organized chronologically, beginning with the historical origins of minimum wages in the United States and culminating in a discussion of contemporary minimum wage politics. The book consists of seven chapters: 1. introduction, 2. early state minimum wage laws, 3. enactment of the Fair Labor Standards Act of 1938 (FLSA), 4. subsequent amendments to the FLSA, 5. the resurgence of state policy activism, 6. local minimum wage ordinances and state preemption, and 7. conclusion. I have completed the first three and a half chapters. In this research report, I summarize the main findings of the first half of my book manuscript.

Chapter 1

The introductory chapter presents the book’s central question of why and how the states have emerged as the major players in the minimum wage policy arena, and why it matters. The chapter begins by noting that as of 2022, it has been 13 years since the most recent increase in the federal minimum wage—the longest stretch of congressional inaction in American history. Relative to its peak in 1968, the value of the federal minimum wage has fallen 40 percent in real terms. Media commentators attribute the federal minimum wage’s stagnation to “gridlock” and “dysfunction” in an era of rising partisan polarization.

Meanwhile, a growing number of states—30 plus the District of Columbia, as of 2022—and dozens of cities have adopted minimum wages well above the federal rate. An estimated 60 percent of the nation’s wage and salary workers now live in a place where the minimum wage is higher than $7.25. The highest state minimum wages have tended to crop up in progressive coastal and northern states and urban areas. A growing number of states have also “indexed” their minimum wages so that they will automatically keep up with inflation, and experimented with a variety of tip credit policies and subminimum wages.

Contrary to popular and media accounts, the first chapter argues, the states’ central role in contemporary minimum wage policy is neither new nor surprising. America’s earliest minimum wage laws emerged at the state level, and the regional and political distribution of these laws was similar to the patchwork of minimum wages we observe in the states today. Massachusetts adopted the nation’s first minimum wage in 1912, followed by primarily progressive, coastal states like California and Oregon. Within a few years, 15 states and the District of Columbia had adopted minimum wage laws.
Moreover, the first chapter argues, although shifting political conditions paved the way for congressional enactment of the Fair Labor Standards Act (FLSA) in 1938—ushering in a period of federal government dominance of the minimum wage policy domain over the next several decades—successful federal intervention was both surprising and ultimately unsustainable. The FLSA was one of the most bitterly fought pieces of legislation ever to be enacted by Congress, only passing after a yearlong battle and a series of major concessions by its supporters. The policy that emerged from this legislative struggle was both paltry and narrow in scope, excluding millions of low-wage earners. And although Congress managed to enact numerous minimum wage hikes and expansions of coverage in the decades that followed, it did so often with considerable struggle, typically resulting in only modest increases. By the 1970s, this fragile enacting coalition had fully disintegrated. Subsequent hikes in the federal minimum wage were few and far between, and only possible with increasingly clever political maneuvering. This federal policy vacuum prompted the states to resume their leading role in minimum wage policy.

The introductory chapter situates the book within the existing literatures on federalism, venue-shopping, American political development, and American political economy. The introductory chapter emphasizes that in a federal system, patterns of specialization among federal, state, and local levels of government are not preordained or static. As Baumgartner and Jones observe, in a federal system, “there are no immutable rules that spell out which institutions in society must be charged with making which decisions… so changes in the venues where particular policies are made can occur over time, and issues can become stable in their association with a new arena of policymaking.”1 Policies that were once the sole province of the federal government can shift to the states and localities, and vice versa. The minimum wage is one such policy, and chapter one argues that its development can shed light on the processes by which policy venues evolve over time.

The book also contributes to the emerging literature on American political economy (APE), which is characterized by a substantive focus on the interaction of markets and governance as well as a theoretical focus on meta politics—that is, “the processes of institution shaping, agenda setting, and venue shopping that unfold before and alongside the more visible processes of mass politics that figure so centrally in American politics research.” In particular, meta politics emphasizes the strategic efforts of interest groups “to achieve their objectives across and through different policy venues in the country’s complex political-economic landscape.”2

Chapter 2

The second chapter examines the factors that contributed to the emergence of the nation’s earliest minimum wage laws at the state rather than federal level. When minimum wages first arose on the policy agenda in the early 20th century, the federal policy arena was inhospitable due to Republican dominance of Congress and the presidency as well as the conservative Lochner era of jurisprudence. Venue-shopping thus led reformers to focus on the state level.

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The second chapter emphasizes the role of the National Consumers’ League (NCL), a group of affluent women concerned over the working conditions fostered by industrialism, in designing and promoting the state minimum wage laws of the Progressive Era. The NCL identified a legal loophole in the Court’s *Lochner v. New York* ruling that allowed states to get around court resistance to protective labor laws. Liberty of contract, in the Court’s view, was not absolute; it could be abridged by the states through legitimate use of their “police power” to adopt laws and regulations to protect the public’s wellbeing. This legal strategy led reformers to limit protective labor laws to women and minors. Although reformers at the NCL favored a universal minimum wage for men and women alike, they viewed gendered minimum wage laws as more likely to withstand court scrutiny, and as an opening wedge that might ultimately lead to universal laws.

The second chapter presents detailed case studies on Massachusetts, Oregon, and other early adopters, emphasizing the NCL’s central role in shaping early minimum wage laws. In state after state, NCL reformers conducted detailed studies of women’s and minors’ wages, consulted a variety of experts in America and abroad, drafted model minimum wage legislation, and lobbied for its enactment in state capitals. In Massachusetts, for example, the NCL petitioned the state legislature to appoint an investigative commission to study women’s wages and to report on the advisability of establishing boards to fix minimum rates by industry; based on its findings, the commission recommended that the legislature pass a minimum wage law. Although the resulting legislation was recommendatory rather than compulsory, and thus widely described as “timid” and “weak,” it led to modest wage increases for many of the state’s low-wage women and minors without serious injury to industry and, more importantly, served as a catalyst for reform in other states. Oregon’s law of 1913 was significant for several reasons: it was compulsory rather than recommendatory, it served as a model for most subsequent state legislation, and it was the first minimum wage case to make its way to the U.S. Supreme Court. The Court’s narrow ruling in *Stettler v. O’Hara*, upholding the law as constitutional, paved the way for dozens of states to follow suit with legislation of their own.

The last part of the second chapter documents the abrupt end of Progressive-Era state-level activity following the Supreme Court’s 1923 ruling in *Adkins v. Children’s Hospital of D.C.*, which found D.C.’s minimum wage law unconstitutional. The courts subsequently declared several existing state statutes unconstitutional on the basis of Adkins. In other cases, state legislatures repealed or weakened their minimum wage laws. Those statutes that remained on the books languished in a state of limbo; wage boards largely refrained from issuing any new orders or prosecuting employers for violating existing orders, fearful that they might end up in court. And for a full decade following the 1923 ruling, not a single state passed a new minimum wage law. However, the Court’s subsequent reversal in *West Coast Hotel v. Parrish* (1937) opened the door to renewed state activity. States responded with a flurry of legislative activity, with scores of states either re-establishing laws that had been invalidated by the courts or adopting new minimum wage laws. Moreover, the ruling opened a window of opportunity for federal action, as outlined in chapter 3.

**Chapter 3**

The book’s third chapter covers the enactment of the FLSA of 1938. This chapter’s unique contribution is threefold. First, the chapter emphasizes how, through a process of venue-shopping, reformers who had been working on wage-and-hour legislation for decades at the state level recognized a window of opportunity and shifted their efforts to the federal level. In
particular, the NCL activists and lawyers who had previously operated as outsiders became insiders in the FDR administration, where they played critical roles in drafting, and lobbying for enactment of, federal minimum wage legislation. These reformers drew on their experience in the states, and sought to include key provisions of state laws in the federal law.

Second, the analysis stresses the role of state interests—particularly North-South fissures—in shaping the law’s provisions. Southern Democrats’ congressional dominance during the New Deal Era forced the Roosevelt administration and progressives in Congress to yield to their demands to ensure legislative success. Southerners sought to preserve the competitive advantage afforded by low wages vis-à-vis the North, and to exclude Blacks from the law to preserve racist Jim-Crow Era labor practices. Together with representatives of rural states and Republicans, they represented a formidable obstacle to reform. Their demands led Congress to amend the administration’s bill—lowering minimum wages, limiting federal regulatory authority, and excluding industries dominated by Blacks, such as agriculture and domestic work, among other modifications. By highlighting these dynamics, the third chapter attempts to move beyond accounts of minimum wage policy as the product of battles between business and labor, exploring how business and labor interests intersected with, and were often eclipsed by, sectional, urban-rural, and racial divides.

Finally, the third chapter documents a largely forgotten period in minimum wage history, in which the FLSA closely resembled the Progressive-Era state laws upon which it had been modeled. For the first several years of its existence, the FLSA established tripartite industry committees comprised of representatives of business, labor, and the public to establish wages on an industry-by-industry basis, within statutory boundaries. However, Southern opposition to the industry committees mounted and Congress ultimately abandoned this model in favor of a statutory minimum wage. Thus, state interests critically shaped not only the original provisions of the law and its early operation, but also its subsequent evolution.

**Chapter 4**

Chapter four focuses on the period from 1938 through 1968, when the federal minimum wage reached its peak value in real terms. During this period, the federal government played the leading role in U.S. minimum wage policy. That this period of federal policy dominance happened at all, and lasted as long as it did, is surprising. The New Deal coalition that enacted the FLSA is often depicted as a stable equilibrium between northern and southern Democrats that was later disrupted by the civil rights movement of the 1960s. However, the coalition was in reality unstable from the outset. Chapter four examines the coalition’s gradual unraveling from the 1940s through the 1970s. I argue that bipartisan votes on final bills belie the intensely partisan struggles that went on behind the scenes, as Republicans and conservative Democrats repeatedly pushed for scaled-back, slowed-down wage increases and resisted the expansion of coverage. Data on congressional votes on every bill and amendment related to the Fair Labor Standards Act since 1938, broken down by party and region, support my argument that the federal minimum wage’s enacting coalition was far more fragile than is commonly understood.