

# Notebook CFS

Conference for  
Federal Studies

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## From the Editor....

The Conference for Federal Studies is now in its second decade, taking a central role in fostering communication among those interested in the study of federalism and intergovernmental relations and in their manifestations as well, both academically and practically.

Over the years, the CFS NOTEBOOK has played a major role in this endeavor by being more than just a newsletter. Along with presenting news and information, it has served as your forum: a place to present and discuss ideas, insights and opinions on the myriad of issues related to federal systems.

The NOTEBOOK, therefore, is the place for those interested in federal principles, institutions, and processes to present new ideas, subject old ideas to scrutiny, suggest provocative issues and pose important questions.

The NOTEBOOK solicits information, ideas, and responses from its readership. Readers are urged to submit research ideas, short papers, teaching materials, as well as other appropriate information, including letters to the editor.

Material for publication may be sent at any time. Simply address it to me:

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P U B L I U S   N E W S

PUBLIUS: THE JOURNAL OF FEDERALISM

Since the first issue of PUBLIUS appeared in 1971, the journal has grown to include a broader audience each year. Articles have been published about federal principles, institutions, and processes in the United States and elsewhere through regular volumes, guest edited volumes, and annual reviews.

In the fall of 1985, PUBLIUS undertook a subscription drive for the purpose of expanding its institutional and individual bases of support in the United States and abroad. Such an expansion will enable PUBLIUS to reach an even wider audience and provide resources for further development of the journal.

Recent issues....

The last issue of 1985 (Vol. 15, No. 4) was a special volume on the diffusion of information and innovation in federal systems, entitled Policy Diffusion in a Federal System. Professor Robert L. Savage of the University of Arkansas was the Guest Editor.

The contents of this special volume is as follows:

- "Diffusion Research Traditions and the Spread of Policy Innovation in a Federal System," Robert L. Savage
- "Constitutional Change in America: Dynamics of Ratification Under Article V," Gregory A. Caldeira
- "As Time Goes By: The Arrested Diffusion of the Equal Rights Amendment," Mark R. Daniels and Robert E. Darcy
- "Policy Diffusion and Program Support: Research Directions," Jill Clark
- "The Diffusion of Executive Power in American State Constitutions: Tenure and Tenure Limitations," Gerald Benjamin
- "An Analysis of Judicial Diffusion: Adoption of the Missouri Plan in the American States," Marsha Puro, Peter J. Bergerson, and Steven Puro
- "Interstate Communication Among State Legislators Regarding Energy Policy Innovation," Patricia K. Freeman
- "Federalism and Segmented Communication in the USSR," Thomas F. Remington

Subscription information....

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Denton, Texas 76203-5338

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Forthcoming....

In 1986, PUBLIUS (Vol. 16) will publish two special issues:

The New Federalism

and

The Voting Rights Act

Articles by the following authors will be included:

James R. Alexander  
J. Edwin Benton  
Michael W. Combs  
William W. Lammers  
David Klingman  
John A.A. Ayoade  
Dean E. McHenry, Jr.  
Efraim Torgovnik  
Jonathan Mendilow  
and  
Rodney E. Hero



## FEDERALISM AND CHANGING IDEAS OF RIGHTS IN AMERICA: 1621-1983

Donald S. Lutz  
University of Houston

The history of rights in America has always been tied to our evolving notion of federalism. That this fact is not widely understood is part of our national amnesia with respect to the origins and development of our political system. If we are to understand what it is we are doing as a political people today, it is important to recover the historical connection between these two concepts. I assert here what remains to be established, but it is not possible to establish in detail such a large conclusion when our time tonight is limited. What I propose to do, then, is provide you with food for thought by developing a theoretical snapshot of these two terms at three points in our political history--the middle seventeenth century, the late eighteenth century, and the late twentieth century. This approach will leave much for you to ferret out yourselves in reading and thinking about American political history, but, if successful, I will leave you with two legacies: 1) you will begin to think about rights in America conscious of how our view of them has changed and thus conscious of what we are doing; and 2) you will view what we are doing less in terms of its being right or wrong, and more in terms of the alternatives and possibilities open to us as Americans.

### The Middle Seventeenth Century

The English colonists in America during the 1600's were a religious people. They were quite diverse in sectarian belief, but they were overwhelmingly Protestant steeped in the biblical tradition. This biblical tradition taught them that God made the universe, that the universe therefore followed his will, but that He created the universe with a corner of freedom where other creatures of free will were commanded to follow his laws but could reject His providence. This meant that humans originally had only one fundamental, inalienable right--the right to give or withhold their consent. Thus, human right derived from a God-given free will, and because we were all equally responsible before God for our decisions, we were all given this ability to give or withhold our consent equally and promiscuously. It is no secret to those of us who have studied the matter intensively that popular sovereignty, political equality, and majority rule have their roots in America in the radical Protestant appropriation of the Judeo-Christian tradition.

Rights of conscience derived directly from this right to give and withhold consent in that free will made the use of force in guiding human action morally unacceptable and in practice futile. Forcing a man to acquiesce publicly to something he did not in fact believe neither changed his mind nor removed his ability to make up his own mind. The primary right of conscience was freedom of religion, although it included the broader right of a man to make up his own mind on the basis of moral commitments judged adequate by himself. The most fundamental political manifestation of this right was the right to approve or disapprove the form of government under which one lived, and all other political rights derived from and were protected by this right to give or withhold consent from the form of government.

An essential ingredient in all of this was a communitarian perspective. This communitarianism rested upon the conviction that even though we are each responsible for our own moral decisions, we are not responsible entirely for

our individual moral training. We become moral AGENTS through God's dispensation, but we learn how to ACT as moral agents as a result of being raised in a community that helps teach us. These Protestants believed that God's expectations of us were accessible to each individual through a reading of the Bible, so there was no need for priests to interpret the Bible for us. At the same time, because of our fallen natures, we see as through a glass darkly, and even when we understand God's will the flesh is weak and individuals require assistance in doing that which they freely will to do.

Put another way, political thinking at the time began with the conviction that we reach our highest levels of moral and material existence on Earth while living in properly designed communities. An individual living in the state of nature will be a morally free agent, but cannot be a moral person. While the ability to be moral is innate, the conscience must be formed before it can act on this innate freedom.

A properly designed community is one which advances true freedom by involving the members of the community in the deliberations on what is the proper course of action to be taken. The community might identify some of the more virtuous among them to assist prominently in the deliberations, but ultimately the general community must approve. The commitment to deliberative processes involving the broad population thus figured prominently in the design and evolution of our political institutions, although it also included a certain amount of deference during deliberations to those who were viewed as having superior virtue, even if it was not acceptable to simply accept blindly what these more virtuous people suggested.

At this stage in our political history federalism was related to freedom and rights in two ways. First of all, the English-speaking colonists in America expressed their most fundamental commitments and agreements in documents that were derived in form from the Bible and termed covenants. The secular form of a covenant was termed a compact. Both forms were at the time considered to be "federal" arrangements. A federal arrangement was one where there was a profound commitment on the part of two or more parties to form a community--to the point where a new moral organism was created--yet each party was viewed as retaining an independent will. The paradigm for federalism was found in the Bible, specifically in the Covenant of Works, or Covenant of Grace. A covenant between God and his free-willed creation resulted in a community that had rather startling characteristics. The relationship had to produce a unity as great as before an agreement with the God of the universe, yet both sides retained independent wills. Retaining independence in the bowels of a profound unity is the very essence of federalism. To be sustained, federalism requires mutual love and moral commitment rather than a legalistic or narrowly contractarian relationship. The depth of the unity rests upon the mutual commitment flowing from a shared life with shared goals and values, rather than on obligations or necessity. This in turn rests upon beings with free wills. The relationship must flow from a continuous willing by beings, WHO COULD SAY NO BUT FREELY SAY YES, or it is not a true federal relationship. Most documents of political foundation written by English colonists in America during the 1600's were federal in precisely this sense.

Aside from the linguistic and theoretical connection between federalism and rights, there was also a very practical one. The colonies, and then later the states, were built from the bottom up as federations of towns and counties. If you examine the earliest federations such as the Fundamental Orders of Connecticut (1639), the Connecticut Structure of Town Governments (1639), the New Haven Fundamentals (1643), and the New England Confederation (1643) you will find that the rights contained in them were the rights of the component governments VIS A VIS the central government. Put another way, rights were used to protect the consenting entities from the unified organism that their consent produced. These rights thus derived from, and served to protect, the most fundamental right of all--the right of each community, and thus its citizens, to give or withhold consent. Even the right to trial by jury can be viewed in this light. It is a way of preserving local control over human behavior rather than vesting such control in a centralized monarchy.

### The Late Eighteenth Century

Between 1776 and 1789 Americans wrote two dozen constitutions at the state level. These state constitutions carried forward the theory of politics just outlined, although in more developed form. The right to give and withhold consent for government was still fundamental. A legislature spoke for the people, but was kept very close to their consent. Annual elections, a broad suffrage, provisions for the electorate to instruct their representatives, and the use of recall and referenda all helped to keep the legislatures close to popular consent. Some states go further than others. Pennsylvania required a bill to be passed twice, during two consecutive sessions, with an election in between where the people could quiz their representatives. Pennsylvania also had a statewide grand jury called a Council of Sensors, which was designed to review legislation and suggest changes to the legislature, as well as recall elected officials.

Those state constitutions with bills of rights identified only two rights as inalienable--the right to trial by jury, and freedom of religion (usually as long as one is Protestant). All other rights were alienable by the legislature for the common good, including the right to property. Thus, with the exception of two inalienable rights, all other rights were subordinate to the will of the community and thereby to the fundamental right of the people being able to give and withhold their consent. There was very little sense of limited government as we know it today, although some glimmerings appear here and there. A few state constitutions declared one or two articles to be unamendable which seems to place these few sections beyond the control of a majority, but generally the legislature and/or the people were not constrained by rights. On the contrary, their fundamental right to give and withhold consent makes all other potential rights subordinate to the consent of the people.

The language in the bills of rights themselves is interesting. Instead of saying that, for instance, there SHALL or WILL be no abridgement of freedom of the press, state constitutions almost universally used words like "ought not" or "should not." This makes the bills of rights admonitory rather than legally binding, and that is how they were viewed. Listing a right was to remind the legislature and/or the people that some matter was not to be taken lightly, but did not prohibit its being alienated. Rights did not limit state governments as

much as popular consent controlled and limited the state legislatures, which in turn granted, administered, protected, and sometimes limited rights. As the Federalists pointed out, state legislature did on occasion alienate these rights, and to their dismay it was more often than not property rights that were alienated.

The Federalists shared many convictions with those who wrote the state constitutions, although they did not like what they saw happening at the state level. They felt popular control was too strong and produced legislative instability and sometimes majority tyranny. Their solution was a national government more removed from the consent of the majority, although still ultimately based upon majority rule. If the Federalists did not intend the majority to rule in an ultimate sense, there would have been no need for them to worry about majority tyranny. Although Federalists were working from a rationalist Lockean perspective rather than from a religious one, they too believed that the most fundamental right was the right to give and withhold consent. In the national Constitution they wrote there was no bill of rights. There is the guarantee of trial by jury, protection of the right of habeas corpus, and prohibitions on ex post facto laws and bills of attainder. Otherwise they relied upon a complex political process designed to make government highly deliberative and less susceptible to short-term majorities. The Federalists considered a national bill of rights unnecessary and perhaps dangerous--unnecessary because the process outlined in the Constitution was viewed as adequate protection against majorities or minorities infringing upon rights, and dangerous because any attempt to list rights at the national level would inevitably leave out things that the people might like to have in the future but which would be made problematic if they were not listed.

In addition they argued that the matter of rights belonged at the state level since it was the states which needed to be limited. Besides, these rights were the product of local majorities, and at lower levels of government rights could vary from place to place in response to the consent of local majorities. Finally, the Federalists argued that since the design of the national government was federal rather unitary, the rights about which the Antifederalists were worried could still be protected by the states.

This last argument was disingenuous for two reasons. First of all, the federal system had been forced upon the Federalist framers. Because American government had been built from the bottom up, the states were real polities. The Federalists were forced to adopt a federal form of government if the national Constitution was to have a chance of being ratified. This was turning necessity into a virtue. Secondly, the states were not worried about protecting LOCAL government since they felt their closely controlled state legislatures already did that. Instead, the Antifederalists were concerned about protecting the STATES from encroachment by the NATIONAL government. A bill of rights was needed, they felt, not to protect individuals, but to protect the states.

Last month the United States Supreme Court reminded us again that the second amendment in the Bill of Rights was not intended to protect individuals, but rather to protect the states. The threat of a national standing army would be offset by state militias, and thus state militias had to be protected from disarmament. A careful reading of the Bill of Rights and the discussion



surrounding them shows that all ten articles were designed to protect state governments against interference by the national government. We read them differently today, but that is because we now use a different theory of rights.

Before moving on to a discussion of today's view of rights, it needs to be emphasized that in the late eighteenth century rights were still closely associated with federalism. The states protected the rights of their respective citizens, federalism was viewed as a means of protecting the ability of the states to preserve their fundamental right of government by consent, and the national Bill of Rights was designed to protect the states against encroachment from the national level.

### The Late Twentieth Century

Today the national Bill of Rights is viewed as protecting individuals rather than states, and as protecting individuals against STATE government as well as national government. Some would regret this situation, if not condemn it, but let me suggest that those who held the original view of rights in America would agree that a people, including the American people, can change their minds on what is or is not a right, and alter the form of protecting them. There is nothing inherently un-American in today's view of rights, at least in this regard.

These early Americans would be puzzled, and perhaps dismayed, by the decline of federalism since 1789. They would point out correctly that the decline of federalism as a means of protecting us against governmental tyranny required some other means to fill the void. They would see that as federalism has declined the national Bill of Rights has been gradually reinterpreted so as to apply to individuals and then broadened in meaning. They would point out that the decline of federalism and the rise of the Bill of Rights have been suspiciously symmetrical. Furthermore, the broadening of rights and their application to the protection of individuals has been accompanied by rights being increasingly viewed in the abstract and as legalistic prohibitions, and these last two developments would give them greatest concern.

The notion of a constitution as higher law was part of the Federalist perspective. This meant that a constitution, ratified by an extraordinary majority, stood as superior to, and thus limiting the legislature. This may have been solace to many Antifederalist who desired the national Congress to be so limited, but it also by implication limits the majority of the people who elect the legislature. This is why some Antifederalists consistently opposed the notion of a constitution as a higher law.

Ironically, by insisting that a bill of rights be added to the national Constitution, the Antifederalists made the Bill of Rights part of the higher law as well. This has inevitably resulted in these rights being viewed as above what was originally considered the more fundamental right of the people to give and withhold consent. They are no longer viewed as subject to legislative alienation, and they are thus also seen as limiting majority consent. There are some things to which no majority may consent. Furthermore, the rights that were originally designed to protect the states, and therefore were an expression of

federalism, have been used against the states and contributed to the decline of federalism.

I say all of this by way of description and not to reject these changes. However, there are costs associated with these historical developments that need to be mentioned and considered. The most serious cost results from viewing rights as abstractions rather than as instruments of community will. An abstract right contains a LOGICAL imperative rather than a social or political one. An abstract right can float in an intellectual world where we can imagine more and more extreme implications that are independent of, and perhaps destructive of, the purposes for which we originally developed the right. For example, freedom of the press was originally intended to protect publishers from prior restraint or from punishment for publishing the truth in a non-libelous form. Some now argue that this free-floating right, in addition to its negative purpose of protecting from control, also has a positive purpose which guarantees the press access to any arena or material regardless of possible effects on a fair trial, national security, or privacy. Furthermore, abstract rights must inevitably come in conflict because the pursuit of one right in its extreme form produces conflict with another right in its extreme form. To partially remedy this problem some argue for giving the rights in the first amendment a "preferred position" so that when the inevitable conflict between rights occurs we know which one to pursue. This then opens up the first amendment rights to active pursuit of the most extreme definition. Instead of a balancing of rights, we have thus retreated into a ranking of rights, which by definition limits some of our rights that are deemed lower on the scale.

Separation of rights from community purpose means that even those rights without limit are now by comparison with the ideal limited and selective, but to remove those remaining limits produces rank absurdities. For example, take once again freedom of the press. Some interpret the right to a free press as allowing newspaper reporters to protect their sources in all instances. This is instrumental toward preventing incomplete, biased, or distorted news that might result if sources of information, wishing to remain anonymous, keep their silence fearing eventual discovery. However, if freedom of the press is an absolute right subject to no restrictions, then EVERY important contribution to incomplete, biased, or distorted news should be removed. Provision should be made for easy entry into the newspaper business by allocating funds for people who wish to publish news and analysis that they feel is not now being provided. By the same token, the fact that the overwhelming majority of newspaper owners and publishers are conservative, usually Republican, and spend most of their time mingling with corporate and social elites, constitutes a danger to a free press. News is far more likely to be biased or distorted by owners and publishers controlling what is printed by their respective editors than the failure to uncover the information in the first place. A free press in an absolute sense might require that those owners and publishers be prohibited from skewing their relationships toward certain economic and social groups. It is fair to ask whether such extreme measures are commensurate with community goals and values. It is also fair to ask how one can justify NOT going to such extremes without reference to community goals and values. If we CAN justify not going to these extremes by referring to community values and goals, cannot the wishes of the community also be used to prohibit other extreme applications of the right? This, of course, raises the question of whether or not a given right is

inalienable. Is freedom of speech or press inalienable? If so, why do we not regulate publishers? If we do not regulate publishers, then we may be treating the right as alienable. I do not want to argue for further restrictions on freedom of the press, but I would like to suggest that we are already operating in a fashion which simultaneously makes some rights rhetorically absolute--beyond the control of popular consent--at the same time that we are limiting those rights implicitly on the grounds of community values. Abstract free-floating rights may not be rights at all, but rather loose cannons below decks on the ship of state.

I offer no solutions this evening, only some further observations. We increasingly hide behind abstract rights, I think, because we decreasingly trust each other. It is possible that these abstract rights have no theoretical grounding other than our mutual distrust. If we do not trust each other, do not trust a majority of the people, and, as polls continue to tell us, no longer have much trust in the public officials elected by the majority, then there is good reason for going to a standard that stands apart from and above them all. This does not, however, strike me as a basis for a national community. It amounts to a politics of disengagement.

Federalism, on the other hand, is based upon a politics of engagement and atonement. It presupposes free people who act through their own consent. It creates unity while protecting liberty. It grounds rights in a community relationship that can stress equality without legalism. It respects diversity. It puts human and community needs above the logical imperatives of abstractions. It offers us the hope of living a political life based not on domination or economic competition for scarce goods, but rather along the lines of a common project among a group of strong-willed and even opinionated people, who frequently differ profoundly on how to proceed, and who argue endlessly, but who are also deeply committed to working together. It is the search for a common ground, conducted by people who start from very different places.

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#### SEMINAR ON COVENANT IN 19TH CENTURY AMERICA

The Workshop on Covenant and Politics is holding a "Seminar on Covenant in 19th Century America" at the APSA Meetings in Washington, D.C. on Sunday, August 31 from 9:00 a.m. to 4:00 p.m. Daniel J. Elazar is serving as chairman and the papers to be presented appear below. Please contact Dr. John Kincaid at North Texas State University for more information - (817)-565-2317.

"Questions of Covenant in the 19th Century" - Daniel J. Elazar,  
Temple University and Bar-Ilan University

"Covenant and Promise in the Writings of Adams and Jefferson" -  
J. David Greenstone, University of Chicago

"The Americanization of the Covenant" - Rowland A. Stearns,  
Indiana University

"Covenant in the Expanding Universe of the 19th Century" - Rozann Rothman,  
Indiana University

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## TEACHING FEDERALISM AND INTERGOVERNMENTAL RELATIONS

The Center for the Study of Federalism is as concerned with the teaching of the principles and practices of federalism and intergovernmental relations as it is in defining and examining their contents and manifestations. Over the years, the NOTEBOOK has published from time-to-time syllabi of relevant courses as a means for exchanging teaching ideas and techniques and reviewing the present state of teaching in the field.

Professor Deil S. Wright, a leading scholar in the field, provides us with his syllabus on IGR. Professor Wright's course is comprehensive and focuses on federalism, intergovernmental relations, and intergovernmental management.

The NOTEBOOK is interested in other methods of teaching about federalism and intergovernmental relations. The NOTEBOOK is also interested in teaching methods for courses and fields related to federalism. All interested persons are invited to submit syllabi to the CFS NOTEBOOK for possible publication. Additionally, the NOTEBOOK welcomes critical comment on the published syllabi from our readers. Frank and open discussion of content and method will aid all of us in improving our teaching in the field.

University of North Carolina  
Political Science 238  
Intergovernmental Relations

Deil S. Wright

### Course Overview

#### General Focus

This course focuses on three broad topics: (1) Federalism; (2) Intergovernmental Relationships; and (3) Intergovernmental Management. The first concept (FED) centers attention on historical, constitutional and political issues involved in the creation and development of our system(s) of governance. The second (IGR) is more recent in origin, has several distinctive features, and reflects a strong policy focus. The third term (IGM) has only recently gained currency and emphasizes action, implementation, and problem-solving in an intergovernmental context. After an examination of these three concepts, problems involving fiscal and institutional relationships--national-state-local--will be explored with a particular emphasis on recent/current policy issues.

#### Texts/Recommended Purchases

1. Hamilton, Madison, and Jay. The Federalist Papers. Mentor, New American Library. 1961.
2. D. S. Wright. Understanding Intergovernmental Relations. Brooks/Cole. 1982.

Texts/Recommended Purchases (Con'd)

3. Emerging Issues in American Federalism. ACIR, 1985.

Additional books and articles relevant to FED, IGR, and IGM are extensive, even massive. You will be referred to substantial segments of this literature and asked to sample selected parts in greater depth. The focus, extent, and character of your sampling will depend on your past background and prospective career interests.

Project/Paper

Introductory sessions will be spent surveying issues, research, and views on the three topics. These rapid and somewhat sketchy surveys should provide the basis and the background for an issue project or a research paper. An issue project is likely to be management-oriented and directed toward a specific or discrete policy management problem. A research paper is more general in orientation and likely to focus on problems of federalism or intergovernmental relationships. An issue paper is likely to involve field work and direct contacts with practicing public officials. A research paper is more likely to involve library research or analysis of data on intergovernmental relationships. The former are expected to result in a short report of 6-10 pages in length and may result in specific recommendations. The research paper is likely to be somewhat longer and may be tied to other course work and broader academic/research literature.

Course Topics and Assignments

I. Introduction: FED, IGR, IGM

- A. Management, Policy, Politics (Video Tapes)
  - 1. NSF/QMB--Study Committee on Policy Management Assistance (1974)
  - 2. FBE--New Federalism, Reagan Style (1982)
- B. Concepts and Historical Perspectives (100 years)
  - 1. Wright, "Managing the Intergovernmental Scene: The Changing Dramas of Federalism, Intergovernmental Relations, and Intergovernmental Management." (on reserve)
  - 2. Wright, "Woodrow Wilson and Federalism: Politics and Administration During a Century of the Intergovernmental State." (on reserve)

II. Federalism: Founder's Concepts and Historical Perspectives (200 years)

- A. On what fundamental political premises were the Federalist Papers grounded? (See Introduction, 1-6, 10, 51, 63, 85)
- B. What did the framers mean by "federalism"? (12-14, 16, 39)
- C. What was wrong with the Articles of Confederation? (15, 21, 22, 38)
- D. What did they think about the (then) present and future role of the states? (17, 44-46)
- E. What were the virtues of a large republic? (9, 10)
- F. What was the nature of national powers? (3, 4, 16, 30-33, 44)
- G. What controversies surrounded the provisions specifying the adoption of the Constitution? (38, 40, 43)

Assignment:

1. Federalist Papers, "Introduction," and papers: 1-6, 9, 10, 12-17, 21, 22, 30-33, 37-40, 43-46, 51, 62, 63, 69, 78, 82, 84, 85.
2. Reports on Federalist Papers.
3. Wright, Understanding IGR, Appendix B.

III. Intergovernmental Relations (IGR)

- A. What are IGR?
- B. How does IGR differ from federalism?
- C. What are major phases of IGR?
- D. What are some prominent and current IGR issues?
- E. How does one approach issues from an IGR perspective?

Assignment:

Wright, Understanding IGR, Chapters 1-3, Appendices A, C, and D.

IV. Intergovernmental Management (IGM)

- A. What is IGM?
- B. What factors or forces contributed to the emergence of IGM?
- C. What features/organizations/activities suggest its separability from Federalism and IGR?

Assignment:

1. Neal Pierce, "Commentary" and Myrna Mandell, "Intergovernmental Management". (on reserve)
2. Wright and White, FED and IGR, Parts I, II, and V. (on reserve)
3. Reports on articles.

V. Intergovernmental Fiscal Policies: National, State, and Local Trends, Profiles, and Issues.

- A. What have been the chief trends in fiscal relationships among local, state, and national governments?
- B. What factors help explain major shifts in revenue and expenditure patterns?
- C. What is the contemporary fiscal position of cities? Counties? Schools?
- D. What is the contemporary fiscal position of the states?
- E. What have been the patterns and impacts of federal aid?
- F. What were the local, state, and national impacts of General Revenue Sharing?

Assignment:

1. Wright, Understanding IGR, Chapters, 4, 7, (pp. 246-262), 11 (pp. 364-376), and 12 (417-434).
2. Reports on articles.

VI. Actor Roles and Participants' Perspectives

- A. President, Congress, Courts (Wright, Ch. 5 and Appendices D, I, J, K)
- B. Parties, Interest Groups, Administrative Agencies (Wright, Ch. 6 and Appendices E, H).
- C. State Actors (Wright, Chs. 7, 8, 9, and Appendices F, L).
- D. Local Actors (Wright, Ch. 12 and Appendices E, H, O).

VII. Non-National IGR and IGM

- A. Interstate Relations (Wright, Ch. 10).
- B. State/Local Relations (Wright, Ch. 11).

VIII. Contemporary FED, IGR, IGM Issues

Assignment:

Emerging Issues in American Federalism

IX. Guest Speakers

- X. Summing Up: The Genesis of FED, the Commandments of IGR, and the Beatitudes of IGM.

Assignment:

Understanding IGR, Ch. 13.

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TWO NEW PUBLICATIONS

Thad L. Beyle, ed., Re-Electing the Governor:  
The 1982 Elections  
(\$15.75)

AND

Stephen Schechter, ed., Teaching About American  
Federal Democracy  
(\$9.95)

Available from:

Publications Department  
Center for the Study of Federalism  
Temple University 025-25  
Philadelphia, Pennsylvania 19122



Panel 4

TITLE: "Environmental Policy Within A Federal System"

CHAIR: David H. Davis, University of Wyoming

PAPERS: "Public Opinion and Legislative Response to the Harzardous and Toxic Waste Challenge," Mike R. Fitzgerald, William Lyons and Patricia Freeman, University of Tennessee  
"Environmental Policy Formation and Implementation: A Structural Explanation for Specific Promises," James M. Hoefler, SUNY-Buffalo  
"Explaining Environmental Federalism," David J. Webber, University of West Virginia

DISC.: William H. Stewart, University of Alabama  
E. Lester Levine, Empire State College

Panel 5

TITLE: "Recent Perspectives on the American Constitutional Founding"

CHAIR: Michael Lienesch, University of North Carolina

PAPERS: "A Re-Evaluation of the Role of the State Constitutions in the U.S. Constitutional System," Donald S. Lutz, University of Houston  
"State-Making and the Expansion of the American Republic," Peter S. Onuf, Worcester Polytechnic Institute  
"The Moral Foundations of the American Federal Republic," Jean Yarbrough, Loyola University of Chicago

DISC.: William B. Allen, Harvey Mudd College  
Joshua Miller, North Carolina State University

Panel 6

TITLE: "Fiscal Stress and Urban Policy"

CHAIR: Michael R. Fitzgerald, University of Tennessee

PAPERS: "Urban Political Culture and the Scarcity of Public Goods," Robert F. Durant, University of Georgia  
"The Urban Fiscal Crisis: Can Local Politics Make A Difference? The Cases of New York and Chicago," Esther Fuchs, Columbia University  
"Citizens' Preferences for Spending and Taxes in a Suburban Context," Mark Baldassare, University of California, Irvine; Jesse Marquette, University of Akron; Stephen Brooks, University of Akron  
"Reliability Estimates for the National Level Fiscal Austerity Data," Roberta Penny Marquette, University of Akron

DISC.: Sally Ward, University of New Hampshire

SESSIONS ON FEDERALISM AND INTERGOVERNMENTAL  
RELATIONS AT 1986 APSA MEETING  
Washington, D.C.  
August 28-31, 1986

Panel 1

TITLE: "Perspectives on Intergovernmental Relations"

CHAIR: David B. Walker, University of Connecticut

PAPERS: "Federal Pre-emption of State and Local Government Activities"  
Joseph Zimmerman, SUNY-Albany  
"Federal Pre-emption, Federal Conscription" Alfred R. Light,  
Hunton & Williams, Richmond, Virginia  
"State Mandating of Local Government Activities: An Exploration,"  
Rodney Hero, University of Colorado

DISCUSSANT: Deil S. Wright, University of North Carolina

Panel 2

TITLE: "Parties and Policy in the Federal System"

CHAIR: Robert J. Huckshorn, Florida Atlantic University

PAPERS: "Parties, PACs, and Campaign Finance: An Intergovernmental Perspective"  
Cynthia C. Colella, University of Maryland  
"Party Identification in the Federal System," Michael J. Maggiotto,  
University of South Carolina  
"Federal Court Challenges to State Party Regulation," Jerome M. Mileur,  
University of Massachusetts

DISC.: Timothy Conlan, U.S. Senate Subcommittee on Intergovernmental Relations

Panel 3

TITLE: "The U.S. Supreme Court and Intergovernmental Relations"

CHAIR: C. Herbert Pritchett, University of California, Santa Barbara

PAPERS: "The Burger Court's Impact on Intergovernmental Relations," James R.  
Alexander, University of Pittsburgh at Johnson, Louise B. Miller,  
Empire State College at Albany  
"The Supreme Court and Intergovernmental Relations: Searching for  
Voting Patterns"

DISC.: Robert Roper, National Center for State Courts

Workshop 1

TITLE: "Federalism, Constitutions, and Courts"

The relationship of federalism, constitutions, and courts in contemporary American society will be explored in light of how those relationships were conceptualized in the founding era and how they are currently being conceptualized in the Blackmun doctrine in the Garcia decision. Referent papers will be distributed to participants in advance of the workshop. Framing comments will be made by discussants to identify issues of both theoretical and practical significance for American government. The Workshop will explore how these issues might be addressed as subjects for further inquiry and critical assessments. Persons wishing to participate in the Workshop may secure copies of papers by writing to Vincent Ostrom, Workshop in Political Theory and Policy Analysis, Indiana University, 513 North Park, Bloomington, Indiana 474050.

CHAIR: Vincent Ostrom, Indiana University

REFERENT PAPERS:

"Reflections on the Garcia Decision and Its Implications for Federalism"  
Lawrence Hunter and Ronald Oakerson, Advisory Commission on  
Intergovernmental Relations  
"Federalism as a Subject of Interpretation," Robert Nagel, University of  
Colorado

DISC.: Lawrence Hunter, Advisory Commission on Intergovernmental Relations  
Bette Novit-Evans, Creighton University  
Robert Nagel, University of Colorado

Workshop 2

TITLE: "Beyond the New Judicial Federalism"

The purpose of this workshop is to evaluate state constitutional developments in the decade following the birth of the "New Judicial Federalism," and to speculate about the possibilities of future trends. If interested in participating and receiving a list of discussion questions, please write to Mary Cornelia Porter, 1213-A Central Street, Evanston, IL 60201.

CHAIR: Mary Cornelia Porter, Barat College (on leave)

PRESENTERS: Gerald Benjamin, SUNY-New Paltz  
Sue Davis, University of Delaware  
Daniel J. Elazar, Temple and Bar-Ilan Universities  
A.E. Howard, School of Law, University of Virginia  
Daniel C. Kramer, College of Staten Island, CUNY  
Janice C. May, The University of Texas at Austin  
Robert F. Williams, Rutgers University, Camden


Roundtable 1

TITLE: Congress and Federalism

CHAIR: Robert D. Thomas, University of Houston

DISC.: R. Douglas Arnold, Princeton University  
Daniel J. Elazar, Temple and Bar-Ilan Universities  
Charles O. Jones, University of Virginia  
Margaret Wrightson, U.S. Subcommittee on Intergovernmental Relations

\* \* \* \* \*



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- "Images of Liberty," a photographic exhibit of the 100 years of the Statue of Liberty

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☐ Send hotel information

Registration fee includes all Forum sessions, May 1 reception and dinner, May 2 breakfast and lunch, background packets and other conference materials

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### Workshop on Political Culture

The Workshop on Political Culture has initiated a pilot project to develop and test empirical measures of American political culture and its subcultures. The principal participants to date are Terry N. Clark of the University of Chicago, Daniel J. Elazar of Temple University, John Kincaid of North Texas State University, Joel A. Lieske of Cleveland State University, Benjamin W. Mokry of the University of Mississippi, Robert L. Savage of the University of Arkansas, and John W. Winkle of the University of Mississippi.

An informal and wide-ranging discussion of political culture was held at the 1985 APSA meeting in New Orleans. The informal meeting was hosted by Aaron Wildavsky. Other participants included Terry N. Clark, Ivo D. Duchacek, Harry Eckstein, Daniel J. Elazar, Thomas O. Hueglin, John Kincaid, Joel L. Lieske, and Robert L. Savage. A panel on "Approaches to Cultural Analysis in Political Science" is being proposed for the 1986 APSA meeting.

### THE CSF READING LIST ....

CFS NOTEBOOK salutes the following CSF Fellows and Associates who have recently published books and articles.

Daniel J. Elazar, "America and the Federalist Revolution," This World No. 10 (Winter 1985): 52-71.

John Kincaid, "State Offices in Europe," Comparative State Politics Newsletter 6 (August 1985): 22-28.

Stephen L. Schechter, The Reluctant Pillar: New York and the Adoption of the Federal Constitution. Troy, NY: Russell State College, 1985.

Robert D. Thomas, "Cities as Partners in the Federal System," Political Science Quarterly 101 (Spring, 1986).

