Two Hundred Years of Statehood
IN THIS BICENTENNIAL year it is important for us to understand the origins of our state governments, for the Revolutionary era was the most creative period of constitutionalism in American history, and the establishment of our state governments was at the heart of that constitutionalism. Not only did the formation of the new Revolutionary States in 1776 establish the basic structures of our political institutions, but their creation brought forth the major conceptions of our political and constitutional culture that have persisted to the present. Our bicameral Legislatures, our tripartite separation of powers, our bills of rights, our notion of a constitution, and our unique use of constitutional conventions were all born in the state constitution-making period between 1776 and the early 1780s, well before the federal Constitution of 1787 was created.

Difficult as it may be for Americans to accept, it was not the federal Constitution that originated our understanding of constitutionalism. Indeed, the new federal government of 1787—the way it was structured and formed—was only the product of what had taken place in the making of the state governments during the previous decade. In the first crucial years of independence the States, not the central government, were the focus of interest for most Americans.

From the middle of the nineteenth century, particularly as a result of the crisis that led to the Civil War, to the present, Americans have engaged in a continuing debate over the priority of the Union or the States. Although the Continental Congress, organized in the fall of 1774, undeniably preceded the formation of the separate States in 1776, there can be no doubt that at the time of independence most Americans were obsessed not with the Congress or the structure of the federal Union but with the constitutions of their individual States. Before the Revolution, being a member of the British empire meant being an inhabitant of a particular colony, whose history generally went back a century or more. From these colonies the States in 1776 inherited not only their geographical boundaries but the affections and loyalties of the people. Despite all the nationalizing and centralizing sentiments fomented by the debate with Great Britain in the 1760s and early 1770s, by the time of independence a man’s “country” was still his colony or State. For John Adams, the Massachusetts delegation in Congress was “our embassy.” As late as 1787 some Marylanders still called their State “the nation.” The Declaration of Independence, though drawn up by the Continental Congress, was actually a declaration by “thirteen united States of America” proclaiming that as “Free and Independent States they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent states may of right do.”

The Articles of Confederation, America’s first federal Union, was created in 1777 and ratified by all the States in 1781. Despite all the powers the Articles gave to the Congress, they did not fundamentally alter this independence of the States. Commercial regulation and taxing power, indeed all final governmental, law-making...
power, remained with the States. Seven of the States even felt it necessary to enact
the Declaration of Independence to give it the obligation of law within the State.
Under the Articles, congressional resolutions continued to be mere recommenda­tions, which the States were left to enforce. Americans were citizens of their
separate States, not of the United States, a confusing situation that was actually
not clarified until the Fourteenth Amendment to the Constitution in 1868. The
individual States jealously guarded the independence and sovereignty that the
Declaration of Independence had given them and, even in violation of the Ar­ticles of Confederation, made war, provided for armies, laid embargoes, and in
some cases even carried on separate diplomatic correspondence and negotiations
abroad. The Confederation was intended to be and remained a kind of treaty
among sovereign States, similar in some respects to the present union of Euro­
pean states.

STATE GOVERNMENT ESTABLISHMENT

It is clear then that at the time of independence the States were the political
bodies Americans cared most about. They were to be the arena for testing all that
Americans had learned about politics both from their colonial experience and
from the debate with Great Britain in the 1760s and early 1770s. In that great
imperial controversy the colonists had developed a comprehensive understanding
of politics—how governmental power could be abused, how tyranny arose, and how
the people could best protect their rights and liberty. Even before the Declaration
of Independence many American leaders were eager to apply this knowledge in
the reconstruction of their separate colonial governments. In fact, making new
state constitutions, as Thomas Jefferson said in the spring of 1776, was “the whole
object of the present controversy,” for the aim of the Revolution had become not
simply independence from British tyranny but the eradication of the future possi­
bility of tyranny.

Such an awesome goal explains the Revolutionaries’ exhilaration in 1776 over
the prospect of forming their new state governments. They believed, as John Jay
of New York said, that they were “the first people whom heaven has favoured
with an opportunity of deliberating upon, and choosing the forms of government
under which they should live.” Nothing—not the creation of the Confederation,
not the military operations of the war, not the making of the French alliance—
in the years surrounding the Declaration of Independence engaged the interests
of Americans more than the framing of these separate state governments. State
constitution-making was, as Jefferson said, "a work of the most interesting nature and such as every individual would wish to have his voice in." Once independence was declared in July 1776 the business of the Continental Congress was stymied because so many delegates, including Jefferson, left for home to take part in the paramount activity of erecting new state governments. "Constitutions employ every pen," remarked Francis Lightfoot Lee of Virginia in the fall of 1776.

By the spring of 1777 all the former colonies had either revamped their charters, as in the case of Connecticut, Massachusetts, and Rhode Island, or had written new constitutions. Never in the history of the world had there been such a remarkable burst of constitution-making. It captured the attention of intellectuals everywhere in the world, and the state constitutions were soon collected together in print and translated into several languages.

Although the Revolutionaries knew they would establish republics, they did not know precisely what this meant institutionally. There was, therefore, confusion and dispute about what forms the new governments should take. The Revolutionaries' central aim in 1776 was to prevent power, which they identified with the rulers or the Governors, from encroaching upon liberty, which was the possession of the people or their representatives in the Legislatures. They thus sought to create some sort of mixture or balance between power and liberty. In all the constitutions the much-feared Governors were weakened, and the popular assemblies were strengthened. As a balancing force between both, upper houses or Senates (the term taken from Roman antiquity) were created in all the States except Georgia, Pennsylvania, and Vermont. The Senates were to be aristocracies, composed not of any legally defined nobility but of the wisest and best members of the society, who would revise and correct the well-intentioned but often careless measures of the people exclusively represented in the Houses of Representatives.

Because the constitution-makers in 1776 identified tyranny with executive authority, they stripped the Governors of their former royal or prerogative powers—the powers to control the meeting of the Legislatures, veto legislation, declare war or make peace, raise armies, coin money, erect courts, lay embargoes, and pardon crimes. In Pennsylvania, which created the most radical of all the new state constitutions, even the office of Governor was eliminated; executive authority there was granted to a 12-man executive council directly elected by the people. Other States, while clinging to the idea of a single executive magistrate, in effect destroyed the substance of an independent Governor. All the Governors were surrounded by controlling councils elected by the Legislatures. The Governors were to be elected annually, generally by the assemblies, limited in the times they could be reelected, and subject to impeachment.

Since English kings and royal governors had maintained their power through their abuse of filling offices in order to "influence" or "corrupt" the Parliament or Legislatures, the constitution-makers were especially frightened of the power of appointment. This power was thus wrested from the traditional hands of the chief magistrate and given in most cases to the Legislatures. This change was justified in the 1776 constitutions by the principle of separation of powers, a doctrine made famous by Montesquieu in the middle of the eighteenth century. Such a stress on keeping the executive, legislative, and judicial parts of the government separate and distinct was invoked by Americans in order to insulate the judiciary and especially the Legislatures from the kind of executive manipulation or "corruption" of the members of Parliament that characterized the English constitution. Hence in the Revolutionary state constitutions, unlike the English constitution, execu-
tive officeholders were categorically barred from sitting in the Legislatures. As a consequence of this effort by Americans to ensure that their popular representatives would not become tools of an insidious gubernatorial power, parliamentary cabinet government was forever prohibited in America; and our constitutional development moved off in a direction entirely different from that of England.

The powers and prerogatives taken from the Governors were given to the Legislatures, marking a radical shift in the traditional responsibility of government. Throughout English history the government as such had been identified exclusively with the Crown or the executive; Parliament's responsibility had generally been confined to voting taxes and passing corrective and exceptional legislation. Now, however, the new American State Legislatures, in particular the lower houses of the assemblies, were no longer to be merely adjuncts of or checks on governmental power but were to assume familiar magisterial prerogatives, including the making of alliances and the granting of pardons, which Legislatures had rarely ever exercised.

EVALIUTION OF CONSTITUTION-MAKING

More important than these institutional arrangements of 1776–77 were the radical changes Americans made in the concept of a constitution and the process of constitution-making. Until the American Revolution the term constitution generally referred to the way a government was put together or constituted; it included not only basic rights and principles but all the legislation and the other ordinary workings of government. After the Revolution a constitution became something very different from the government.

During the imperial controversy, the colonists had been compelled to recognize a distinction between the legality of acts of Parliament and their constitutionality, that is, their correspondence with those fundamental principles of rightness and justice that presumably had made the English constitution a bulwark of liberty. If those constitutional principles were to be protected from mere law-making and made inviolable, then they somehow had to be lifted out of the machinery of government and set above it. This experience, together with the colonists' long tradition of familiarity with written charters as defensive devices against royal authority, made it inevitable in 1776 that their state constitutions would become, unlike the English constitution, parchment prescriptions for government distinctly separable from law-making and the other ordinary workings of the government.

Thereafter it became nearly impossible for people anywhere in the world to
think of a constitution as anything but a printed document "to which," as Thomas Paine said, "you can refer, and quote article by article; and which contains . . . every thing that relates to the complete organization of a civil government, and the principles on which it shall act, and by which it shall be bound."

Some Americans soon questioned whether this concept of a constitution as a fundamental law distinct from ordinary law could ever be sustained, since many of the Legislatures not only had created the constitutions in 1776 but in the subsequent years repeatedly altered them. At first some of the States grappled with various sorts of rudimentary devices to ensure the fundamentality of their constitution. Some simply declared it to be so; others required a larger majority or successive acts of the Legislature for amending the constitution. But none of these measures proved effective against recurrent legislative encroachments in the late 1770s and early 1780s.

Gradually Americans moved toward an institutionalization of the belief that if the constitution were to be truly immune from legislative tampering, it would have to be created, as Jefferson said in 1783, "by a power superior to that of the ordinary legislature." For a solution Americans fell back on the convention, an institution used in the Revolutionary crisis, and gave it a new heightened meaning. Instead of a convention being, as it had been in 1775–76, merely a legally deficient Legislature necessitated by the inability of the regular representation of the people to meet, the convention now became a special alternative representation of the people with the exclusive authority to frame or amend a constitution. When Massachusetts and New Hampshire came to write new constitutions in the 1780s, the pattern of constitution-making had become clear: constitutions were formed by specially elected conventions and then placed before the people for ratification.

By the early 1780s the increasing legislative violations of the constitutions compelled many American leaders to rethink their original ideas about politics. The Legislatures were not as protective of individual liberties as the Revolutionaries had expected. Many of the state assemblies pushed beyond the generous grants of legislative power made by the Revolutionary constitutions to absorb numerous executive and judicial duties—directing military operations, for example, and setting aside court judgments. By the middle 1780s, in the minds of many American leaders the State Legislatures had come to replace the Governors as the political authority to be most feared. No longer did it matter that the Legislatures were supposed to be the elected representatives of the people. "173 despots would surely be as oppressive as one," wrote Jefferson in his Notes on Virginia. "An elective despotism was not the government we fought for."

This experience in the 1780s led Americans into revising their early state constitutions by strengthening the executives, Senates, and judiciaries at the expense of the Houses of Representatives. The Governors were to be freed of their dependence on the Legislatures, once again given the central responsibility for government, and regranted many of the powers, including the appointing of offices and vetoing legislation, they had lost in 1776. Senates were to be instituted where they did not exist, and where they did exist were to be made more stable through longer terms and distinct property qualifications. Judges were to become independent guardians of the constitution. By 1790 Georgia, Pennsylvania, and South Carolina had reformed their constitutions along these lines; Delaware, New Hampshire, and Vermont followed in the early 1790s.

These state legislative encroachments and abuses of power in the 1780s also
contributed to the creation of a new federal structure for the Union in 1787. To be sure, the obvious weaknesses of the Articles of Confederation in matters of national finance, commerce, and foreign affairs made some sort of revision of the Union necessary. By 1787 many American leaders had concluded, as well, that only a strong central government acting directly on individuals and organized as the state governments were organized—with a single executive, a bicameral Legislature, and a separate judiciary—could overcome the problems of government within the States. It would not be the only time in American history that the inability of the States to solve their problems would provoke federal intervention.

Rise of Federalism

The formation of the federal government in 1787 marked a fundamental turning point in the development of American constitutionalism. No longer were the States the only governments that mattered to most Americans. Some of the Federalists, or supporters of the Constitution, wanted to make the States little more than administrative subdivisions of a large consolidated national state. Affection for the States among the people was still too strong, however, and the Federalists had to settle for a division of sovereignty between the States and the national government, creating the “federalism” which still astounds the world. Yet the Anti-Federalists, or the opponents of the Constitution, warned in 1787–88 that the Constitution with its “supreme law of the land” authority “must eventually annihilate the independent sovereignties of the several states.” If the federal government assumed all the important powers of government, Anti-Federalist Melancton Smith asked his New York audience in 1788, how long would the people “retain their confidence” in state representatives “who shall meet once in a year to make laws for regulating the height of your fences and the repairing of your roads?” Once the Constitution was established, he predicted, “the state governments, without object or authority, will soon dwindle into insignificance, and be despised by the people themselves.”

During the 1790s many of the Federalists, in control of the national government, sought to further weaken the States, first by having the national government absorb the state debts and then by building up central institutions such as the United States Army. During the crisis in 1798 over the threat of war with France, Alexander Hamilton, the leader of the Federalists, even contemplated a redivision of the States. The Federalist efforts to centralize power, particularly the repressive Alien and Sedition Acts enacted by Congress in 1798, provoked Virginia and Kentucky into adopting resolutions drawn up by James Madison and Thomas Jefferson respectively. These resolutions proclaimed the right of States to judge the constitutionality of federal acts and to interpose themselves between unconstitutional actions of the central government and the citizenry. Although the other States declined to support Virginia and Kentucky—indeed nine States condemned the resolutions—the stand taken by the two opened a question about the nature of the Union that would trouble the country for many years to come. It anticipated the far more radical effort at state nullification of federal law by South Carolina a generation later.

Jefferson’s election as President in 1800 ended the Federalist efforts to create a consolidated state. Jefferson and the party he represented now sought to recover what they thought was the original meaning of the Revolution of 1776 and to deflate what they believed were the bloated powers of the central government. The federal government, Jefferson declared in his first message to Congress in 1801,
was "charged with the external and mutual relations only of these states." The "principal care of our persons, our property, and our reputation, constituting the great field of human concerns," was to be left to the States. The federal debt was reduced, the national bank was phased out, all internal federal taxes were eliminated, the military forces were weakened, and the federal bureaucracy, miniscule as it was by our standards, was severely cut back.

Yet in the end the "revolution of 1800" did not substantially enhance the power of the States, for although the state governments in the early decades of the nineteenth century were stronger in relation to the national government than at any time since the 1780s, they were steadily being weakened by encroachments from below, from the people themselves. In the early years of the nineteenth century the suffrage was broadened, the constitutions became more popular, and the number of elected officials, including judges, was increased. Gradually the powers of the state governments were fragmented and whittled away from the bottom by contending popular interests of those jealous and fearful of any governmental institution they could not control. The States steadily dealt away to the people their powers to control both religion and the economy. In the early decades of the nineteenth century popular sovereignty took on a literal meaning that the Revolutionaries of 1776 could scarcely have anticipated. These disintegrating populist developments meant that however weak the federal government was at the moment, it had the potentiality to be suddenly strengthened by infusions of power now dispersed in the hands of the people. New events, particularly the crisis that led to the Civil War, would soon determine how the people would redistribute their power.
A TIMETABLE OF WORLD, NATIONAL, AND STATE EVENTS
1776-1819

1776 Congress adopts Declaration of Independence; Anglican church disestablished in all colonies in which it had been tax supported; Eleven States adopt new constitutions; New England, Middle States, and Congress attempt to stabilize wages and prices; Entail and primogeniture virtually abolished by state legislation; Slave trade prohibited or heavily taxed in most States.

1777 Congress adopts the “Stars and Stripes”; States appropriate Loyalist property.

1778 Maryland refuses to ratify Articles of Confederation until all States cede their western lands to Congress; Franco-American alliance formed.

1779 Thomas Jefferson fails to achieve passage by Virginia Legislature of his bill providing for first modern public school system.

1780 Inflation sweeps country, Continental currency falls in value; New York and Connecticut cede to U.S. their western land claims.

1781 Articles of Confederation ratified; British army surrenders at Yorktown.

1782 Americans and British sign final peace; France and Spain sign separate peace with England; Trade unions grow; Strikes increase; Massachusetts Supreme Court outlaws slavery.

1783 Congress adopts Land Ordinance to organize territories for statehood; Virginia cedes western land claims to U.S.; Congress votes plans for permanent federal capital and designates New York as temporary capital; Independent State of Franklin, made up of parts of Tennessee and Virginia, seeks admission to Union; Pennsylvania and Connecticut citizens clash over Wyoming Valley claims; Economic depression; States move to alleviate national scarcity of specie.

1784 Congress adopts Land Ordinance to organize territories for statehood; Virginia cedes western land claims to U.S.; Congress votes plans for permanent federal capital and designates New York as temporary capital; Independent State of Franklin, made up of parts of Tennessee and Virginia, seeks admission to Union; Pennsylvania and Connecticut citizens clash over Wyoming Valley claims; Economic depression; States move to alleviate national scarcity of specie.

1785 Congress adopts Land Ordinance to organize territories for statehood; Virginia cedes western land claims to U.S.; Congress votes plans for permanent federal capital and designates New York as temporary capital; Independent State of Franklin, made up of parts of Tennessee and Virginia, seeks admission to Union; Pennsylvania and Connecticut citizens clash over Wyoming Valley claims; Economic depression; States move to alleviate national scarcity of specie.

1786 Congress adopts Land Ordinance to organize territories for statehood; Virginia cedes western land claims to U.S.; Congress votes plans for permanent federal capital and designates New York as temporary capital; Independent State of Franklin, made up of parts of Tennessee and Virginia, seeks admission to Union; Pennsylvania and Connecticut citizens clash over Wyoming Valley claims; Economic depression; States move to alleviate national scarcity of specie.

1787 Constitutional Convention opened; State delegations vote final approval of draft Constitution; Delaware, New Jersey, and Pennsylvania ratify U.S. Constitution; Northwest Ordinance determined government of Northwest Territory.

1788 Connecticut, Georgia, Maryland, Massachusetts, New Hampshire, New York, South Carolina, and Virginia ratify U.S. Constitution.

1789 North Carolina ratifies U.S. Constitution; Organization of federal government at New York; George Washington inaugurated; Establishment of University of North Carolina, first state university to begin instruction.

1790 First U.S. census—population: 3,929,214; Rhode Island ratifies U.S. Constitution; Organization of the Southwest Territory which was to become Tennessee; U.S. House sets site of new national capital on the Potomac.

1791 Bill of Rights adopted; Vermont statehood.

1792 Kentucky statehood; Washington reelected President for second term.

1794 Congress authorizes construction of six warships; Foundation of U.S. Navy; Whiskey Rebellion.

1796 Land Act provides for survey of public lands and their sale at public auction; John Adams elected President; Tennessee statehood.

1798 Organization of the Mississippi Territory; 11th Amendment (judicial powers) ratified.

1800 Census of population: 5,308,483; National capital transferred to Washington.


1803 Louisiana Purchase; Ohio statehood; Marbury v. Madison holds that Supreme Court has power to declare act of Congress invalid.

1804 Lewis and Clark expedition; First regular caucus of congressmen to choose presidential candidates; Jefferson reelected President for second term; 12th Amendment (manner of choosing President and Vice President) ratified.

1805 Michigan and Louisiana Territories formed.

1808 Congress forbids importation of slaves; James Madison elected President.

1809 Organization of Territory of Illinois.

1810 Census of population: 7,239,881; Supreme Court, in Fletcher v. Peck, declares a state law unconstitutional; West Florida annexed.

1812 Declaration of war against Britain; Madison reelected President for second term; Louisiana statehood.

1814 Francis Scott Key writes “Star-Spangled Banner”; Washington, D.C., burned; Treaty of Ghent.

1815 Battle of New Orleans.

1816 Indiana statehood; James Monroe elected President; First U.S. tariff designed specifically for protection; First U.S. savings bank.

1817 Formation of Alabama Territory; Mississippi statehood.

1818 Illinois statehood.

1819 Arkansas organized as a Territory; Alabama statehood.
THE HISTORY of the American States from 1820 to 1932 is marked by at least three dominant themes: the development of economic, social, and political differences that defy generalizations about the States as a group; their constant loss of power and responsibilities to the ever-growing national government; and the expansion of their own functions in serving the people they governed.

The diversity among the States requires little elaboration. States have been old and new, large and small, rich and poor, democratic and oligarchic, conservative and radical, slave and free, rural and urban, agricultural and industrial, tolerant and repressive, enlightened and backward-looking. Their diverse characteristics have been shaped by climate, topography, natural resources, and the ethnic and economic origins of their citizens. The States also, however, had certain things in common: they began as societies defined according to stipulated geographic boundaries; they were required to have republican forms of government; and they were assigned the same specific powers, duties, and responsibilities by the United States Constitution. They were also joined together as constitutional equals in a larger federal union empowered to make decisions and laws, and administer policies relevant to the common needs, interests, and security of all the people of all the States. No other Nation had ever been organized on this pattern, and conflict and competition were inevitable among the States and between the States and the federal government over the powers, rights, and responsibilities not clearly defined by the Constitution. For better or worse, the course of American history in the years 1820-1932 consistently favored the expansion of federal power at the expense of the States.

By 1820 the national government already dominated the States to a degree far beyond the control the British government had exercised over the colonies. The War of 1812 had stirred up a new sense of national loyalty, and more and more people were looking to the federal government for help in building roads and canals, and ultimately railroads, and to supplement the excellent river systems already present. Economic interdependence was both inevitable and highly profitable, and this meant interstate trade and the constant movement of people, both of which weakened state and local loyalties. The right of the federal government to establish a national bank with branches in all the States, as well as the illegality of any state efforts to control or tax the branches, had already been established by the Supreme Court. Likewise, state efforts to regulate interstate commerce had been invalidated even in cases where the federal government was failing to exert needed controls. In many of the States the federal government still held title to millions of acres of land, and this constituted another level of influence over the States and their citizens. The granting of the vote to all male whites, which occurred in many States and triggered "Jacksonian Democracy," further stimulated popular interest in the national government, with the presidency the great prize stimulating the competitive instincts of many people.

*Mr. Smith is Professor of History at the University of Maryland.
Voices advocating state sovereignty, however, could still be heard in crisis situations. Challenges to federal power had occurred at the state level in 1798 and 1815, but the specific causes of discontent had disappeared before actual collisions developed. The year 1820 also left undecided a basic constitutional question: Could the federal Congress place conditions upon a new State as a price for its admission to the Union? Congress had tried to impose the gradual abolition of slavery upon the new State of Missouri; but after a heated nationwide debate, the effort was dropped in return for an agreement that a vast western area north of the southern boundary of Missouri should be forever free. The controversy, however, did establish the principle that Congress could impose rules such as the prevention of slavery upon the territories. This, however, left unsettled another question: Did the national government hold the territories in the name of the people as individuals or as the representatives of all the States, slave as well as free?

The ultimate sovereignty of the States was again defended in 1830, when tariff laws and land policies produced a congressional debate between Daniel Webster and Senator Hayne of South Carolina. The constitutional principle remained unsettled, but much of the public was apparently thrilled by Webster's concept of a free and united Nation with a worldwide mission of infinitely greater significance than the aims of any one State. The debate featured Webster's famous reply: "Liberty and Union, now and forever, one and inseparable!" The 1830 arguments came to a head in 1832-33, when the leaders of South Carolina, headed by Senator John C. Calhoun, announced that a State could declare a federal law unconstitutional and refuse to obey it. A South Carolina convention "nullified" the federal tariff laws and defied the President to collect the duties. President Andrew Jackson announced that he would use force if necessary, and the Congress passed legislation authorizing him to do so. No other State supported South Carolina, and the crisis was settled by a compromise that gave South Carolina very little in return for its acquiescence. The other States and their representatives had been quite willing to support Jackson's use of coercion, and a new burst of national loyalty was the result. Jackson's popularity as a national hero and his association of nationalism with democracy added still further to the strength of the federal government.

Jackson himself, however, was fearful of excessive federal power and advocated States' rights on numerous other occasions. He approved when Georgia defied the Supreme Court by violating national treaties with the Cherokee Indians. Ultimately the federal government moved several tribes westward at the behest of Georgia and Alabama, whose citizens promptly expropriated the vacated lands. Jackson also dismantled the national banking system that had served as the federal treasury and thereby controlled the paper money issues of the state banks. By executive order Jackson deposited the national revenues in a number of selected state banks. In 1836 the country's first and only treasury surplus led Congress to pass legislation depositing the money in the state treasuries, with the funds theoretically repayable upon demand. It was an act of conscious hypocrisy on the part of everyone concerned. The resulting boom and the transfer of the funds from state banks to the state treasuries helped produce a major depression, and the States spent the first three installments as soon as they were received. The fourth and final installment was cancelled, because instead of a surplus the government had a heavy debt. Generally, however, the States spent the money for
useful items like roads, canals, and schools, or to repay debts already contracted by such projects. The federal government still has a meaningless lien on the States for $27,000,000 plus interest.

In 1840, state banks were replaced as keepers of the national treasury by a federal independent treasury which collected and disbursed the federal monies without being involved in the banking and paper money systems at all. The funds were returned to the state banks from 1841 to 1847, but from 1847 to 1863 the independent treasury system again prevailed. Thus, from 1833 to 1861 and the Civil War, the Nation's only paper money resources were promissory banknotes issued by state banks, many of which were entirely deficient in specie resources to support the notes. This was the one period in American history when the federal government exercised very little financial control over the States. State banking policies and state bank charters were vital issues in state politics. No national regulation of bank currency existed, and the money system was therefore devoid of uniformity or stability. Banking laws in some States were too strict for the adequate development of needed capital and credit. In other States, usually in the South and West, the lax rules produced wildcat banking and unsound inflation. Bankers and merchants everywhere were dependent upon Banknote Reporters and Detectors to determine which notes were counterfeit or were from banks that had already failed. Some States, such as Massachusetts, New York, Indiana, Iowa, and Louisiana, developed systems that were both sound and reasonably adequate. Most business leaders and their congressional representatives, however, continued to dream of earlier days when the federal treasury was the basis of a stable money system which supplied liquid capital and credit that local banks could not provide for economic expansion.

Rise of State Power

The period of 1836–61 was marked by other events strengthening the state governments. Chief Justice Roger B. Taney and the Supreme Court developed the police power concept which in effect gave constitutional justification to almost any state legislation that protected or enhanced the welfare of the people. The Court also strengthened the power of the States to regulate and control private interests in the name of the whole people. Another doctrine of the Taney Court had mixed results. The Court ruled that any corporation chartered in one State enjoyed all the same privileges, rights, and powers in all the other States; the non-chartering States, however, could exclude any corporation from their borders by specific legislative action. Thus, American corporations would henceforth gain nationwide rights and privileges from charters issued by only one State unless the prerogatives were specifically denied by State Legislatures, which were subject to financial pressures and favors from corporations anxious to avoid exclusion. It was the beginning of a situation destined to get worse before it would improve: poorly paid and rarely honored state legislators holding great responsibilities and powers in their dealings with immensely wealthy corporations.

Unfortunately, the best talents and energies of the leaders of the States before the Civil War were engaged primarily in the sectional quarrel over the rights of slaveholders in the new territories and in the free States. Contrary to a widespread myth, the southern States controlled the federal government from 1828 to 1861, and except for the brief nullification struggle by South Carolina, the northern States were the defenders of States' rights. Every President from Jackson to Lincoln was either a Southerner or a strong southern sympathizer, and the
Southerners dominated the Senate and the Supreme Court. Tariffs were struck down, internal improvements were either defeated by Congress or vetoed by Presidents, and national banking was eliminated. Southerners led the drive to annex Texas with its illegally inflated boundaries, while various northern States formally expressed their condemnation of the war with Mexico. Ironically, the congressional action admitting Texas authorized its division into five extra States, which would have given the South 10 more senators, but until recently no such action was ever suggested. Northerners objected to the federal assumption of the Texas debt and were furious over the federal Fugitive Slave Act which required northern officials and citizens to help Southerners capture escaped slaves. During the 1850s several northern Legislatures defied the federal government by passing personal liberty laws against the Fugitive Slave Act. In a celebrated case in 1859, the Wisconsin Supreme Court declared the act unconstitutional, but was then overruled by the southern-dominated United States Supreme Court in a decision defending the concept of national sovereignty over the States. The Wisconsin Legislature responded with States' rights resolutions quite similar to those of Calhoun in 1832. In 1854 Congress struck down the Missouri Compromise and theoretically opened a vast western area to slavery. In 1857 the Supreme Court denied the right of either the federal government or a territorial government to bar slavery from any national territory, and in 1858 the United States Senate infuriated the northern States by voting 33 to 25 to admit Kansas as a slave State despite obvious evidence that most Kansans were opposed to slavery. President James Buchanan had announced that Kansas was as much a slave State as Georgia or South Carolina. The northern anger over these events created the new Republican Party with a strong antislavery faction providing much of its leadership. The southern States responded with the ultimate demand. They must have federal protection for slavery in the territories regardless of the sentiments of the territorial inhabitants. Northern Democrats who had previously supported the South could not take this final step, and the result was the election of Abraham Lincoln in 1860. Nevertheless, President-elect Lincoln pledged himself to respect the rights of slavery in the States where it already existed, and the Southerners continued to control Congress and the Supreme Court until their representatives in Congress were eliminated by secession.

Insulted, angry, and fearful over the apparent end to their long domination of the federal government because of Lincoln's election, seven southern States seceded, and were later followed by four more border States when Lincoln announced plans for coercing the original seven. President Buchanan had stated that no State had a constitutional right to secede, but that the Union had no constitutional right to coerce a State that did secede. President Lincoln did not consult the Constitution. He was determined to preserve the Union, and when the Carolinians fired on Fort Sumter he called for an army to suppress the rebellion. The test of ultimate sovereignty was settled on the battlefield.

THE CIVIL WAR

Much of the Civil War recruiting process on both sides was carried out at state level, and several northern Governors made important contributions to the war effort. The net result of the war, however, was an enormous strengthening of the federal government. The control of the currency and banking systems passed from the States to Washington forever. Federal taxes, never before even suggested, were imposed with only minimal opposition. Transcontinental railroads were
built with federal subsidies. The rhetoric of the war emphasized national allegiance at the expense of the States. When the war ended, the reconstruction process included the Fourteenth and Fifteenth Amendments, which gave the federal government the responsibility for protecting citizens against discrimination or injury by the States.

Quite properly, the federal government could not ignore the problems of absorbing 4.5 million newly freed black slaves, most of them illiterate and without property, into a southern white society accustomed to the attitudes and practices of slavery. Most Northerners were also afflicted with racial prejudices, but after the sacrifices of the war they were unwilling to accept the widespread southern violence and discriminations against the freed men. The suffering of the southern States from the so-called radical reconstruction was primarily mental. A relatively small northern army was present, but it did almost nothing to help the blacks beyond trying to impose legal justice over and beyond the existing southern state and local courts. Several bloody riots occurred at the expense of the freed men without the army doing anything to stop or ameliorate them. In some of the so-called carpetbagger-scalawag state governments, corruption was minimal, while in others, where chicanery did abound, it was usually divided among the factions rather than confined to the radicals. Several southern state governments did go heavily into debt by endorsing the bonds of railroad companies and other utility corporations. Most of the bonds were bought by Northerners and the money went into new railroads and other forms of wealth. When the depression of 1873 wiped out many of the railroad and other companies, the southern States were left owing the money. Very quickly, however, every southern State simply repudiated the debts, and the net result was an increase of southern wealth at the expense of Yankee investors. Reconstruction had ended in most of the southern States as early as 1872, and the last two States were returned to conservative white control in 1876. In reality the reconstruction governments did much for the southern States by writing new constitutions and laws that allowed more whites as well as blacks to vote, increased the rights of women and the protection of children, created more equitable tax systems, established public school systems, greatly improved judicial procedures, and developed new state services never before provided.

The attitudes that had made both slavery and the Civil War possible had not died, however. In the 1880s and 1890s Northerners looked the other way while the southern States systematically violated the Fourteenth and Fifteenth Amend-
ments with laws disfranchising their black citizens and imposing hard legal patterns of segregation and discrimination. The Supreme Court had already ruled that neither amendment applied to coercive acts of individuals or private groups, and it accepted state-imposed segregation under the doctrine of "separate but equal." Not until after World War II did the federal government or any significant number of Northerners show any interest in the problems of black Southerners, and the southern States were dominated by leaders who did not hesitate to court white voters with appeals to racial prejudice. All too often, these appeals were used as a substitute for responsible state government.

During the last third of the nineteenth century, most of the state governments were under heavy pressures and temptations created by the great burst of technological, economic, and financial expansion. State and local governments held legal controls and privileges which powerful economic groups wished to be either used in their interest or not used at all. State governments issued liberal corporation charters and franchises, dispensed natural resources freely, failed to institute equitable taxing structures, opposed the development of labor unions, and considered as socialistic almost any program designed to regulate the wealthy or improve the welfare of the poor. Occasionally a reform group or coalition would gain control of a state government and pass laws for the advantage of big-city slum dwellers or impoverished western farmers, but such events were the exception rather than the rule. The emotions left by the Civil War dictated a solid Democratic South and an equally solid Republican Midwest, and most officeholders were nominated by party caucuses. This meant that in the South and the Midwest the Governors, legislators, and judges, as well as the United States senators and congressmen, were often chosen by caucuses since the general elections were a foregone conclusion.

The problems were usually more complex than the mere fact of too many underpaid legislators being influenced by the rich and powerful. Efforts to control or regulate economic developments invariably affected activities that were national in scope and could be defined as interstate commerce exempt from state intervention. Even when States produced reform legislation, a conservative Supreme Court was often ready to strike it down. An important exception occurred between 1869–72, when Illinois, Iowa, Minnesota, and Wisconsin passed a number of laws designed to regulate the warehouses and railroads within their borders. Lawyers argued before the Supreme Court that corporations were citizens, and that under the Fourteenth Amendment no citizen's rights and privileges could be abridged by a state government. In 1877, the Court ruled that the regulations were constitutional. In 1886, however, this doctrine was weakened by a ruling that only intrastate businesses could be regulated.

**The Rise of the Federal Government**

By the 1890s reformers were looking again to the federal government for effective changes, and the so-called Progressive Era, 1901–20, produced another great expansion of federal power and responsibility. Railroad regulation and the strengthening of the Interstate Commerce Commission, pure food and drug legislation, the conservation of natural resources, the direct election of senators, a graduated income tax amendment, various forms of agricultural assistance, labor reforms, and a new national banking and money system were all new advances that bypassed the States.

In the same period, however, many of the States also caught the fever of re-
form and enacted laws designed primarily to break the control of special economic interests in the state capitals. Leaders like Theodore Roosevelt, Robert M. LaFollette, William E. Borah, Hiram Johnson, William S. U'Ren, and Charles E. Hughes made national reputations as reformers and innovators in state government. Many States gained the secret ballot, the short ballot, and the primary election, which restored a chance for democracy in the one-party States of the South and Midwest. The initiative and referendum, whereby citizens could originate, nullify, or pass laws outside the legislative process, and the recall, whereby an ineffective, dishonest, or otherwise unpopular official could be ousted by public demand, were enacted by numerous States. Others passed specific legislation against the activities of various corporations, but they always faced the judicial doctrine that the businesses so affected must be entirely intrastate. States also passed factory safety and sanitary codes, minimum wage and hour laws, workmen's compensation, protection for female and child labor, mechanic's lien laws, and limitations on the use of injunctions in labor disputes. Wisconsin established the first graduated personal income tax since the Civil War, and within a few years some 15 other States and the federal government had copied the system. Certain famous political machines dominated by well-identified corporate interests were overthrown in spectacular struggles, and for a moment the States shared the limelight of progressive reform with the federal government.

Unhappily, however, the rhetoric and sacrifices of World War I drained off the emotional zeal for better and more active governments that had characterized the preceding 20 years. During the war the major details of economic, social, and political life were again directed in one way or another from Washington, and the States found themselves again mere executors of national policy. The war ended on a note of popular disillusionment, as many of the noble aims of the wartime speeches were notably missing from the peace treaty. Although Governors and Legislatures of two thirds of the States did go on record in support of the League of Nations and further efforts to ensure the future peace of the world, the failure of the U.S. Senate to ratify the League of Nations and a resurgence of business influence lessened the concern for social justice. A laissez-faire social and economic attitude showed that too many people had temporarily used up their capacity for unselfish involvement in the problems of others.

The Great Red Scare, which marred the immediate postwar period, was reflected in the States. Seventeen States passed antisubversive laws which could be directed against almost any kind of unpopular dissent. The hysteria brought the
modern Ku Klux Klan to life, and by 1922 it had 4.5 million members and promoted the election of many officials at the local level and several at the state level in the name of opposition to Negroes, Jews, Catholics, and foreign born. Most state governments did nothing to promote such activities, but were usually helpless to prevent them.

The Prohibition Amendment was another cross for state and local governments to bear. The American thirst for illegal beverages poured billions of dollars into the pockets of organized crime. Thus capitalized, the underworld could branch out into other misdeeds which the state and local police forces simply could not control.

The enormous prosperity characterizing many States and the Nation as a whole contributed further to dull the sensibilities of those who had supported state reforms during the Progressive Era. In 1929, however, the Great Depression struck. Those States with surplus wealth devised various relief programs, while the poorer States were helpless. By 1933, even the richer States could no longer help the destitute, and once more all eyes were turned toward Washington and the New Deal on the horizon. Many of the New Deal's most vital programs, however, would depend upon existing state political and administrative institutions for their implementation.

CONCLUSION

Like most institutions created by human beings, the American States in the period 1820–1932 reflected the foibles as well as the virtues of the species. The American people learned from experience what the States could and could not do, and faced the challenge of using them to the best advantage within the range of their capabilities and necessary functions. Despite the failures, the list of achievements was long. Most of the Nation's ablest leaders had gained their experience and practical skills from service at the state level. This was both an achievement and a weakness, because those leaders most needed to make the state governments successful had moved all too soon to the more prestigious responsibilities in the national government. The States had created systems of universal free education, and even though these were uneven in quality from State to State, no nation anywhere had a larger percentage of its children and youth in schools. The state universities, many supported entirely by States and others aided also by the federal land grant program, were rapidly approaching the great private institutions in quality, and would offer new opportunities for intellectual and vocational attainments to millions of young people who could neither afford nor gain admission to the private schools. The state political party systems and organizations were indispensable agencies for the effective functioning of the democratic electoral processes whereby leaders at all levels were selected. The States had already built millions of miles of highways necessary for the transportation revolution, and were busily engaged in developing the laws and technology for keeping the automobile from becoming an all-devouring monster. Sanitation, public health standards, insurance rates and practices, hospital practices, fire-hazard standards, and industrial safety practices were only a few of the vital aspects of daily living being successfully regulated for the public benefit. State police and state courts were a major source of security and justice for most citizens.

Numerous States had served as invaluable political laboratories by experimenting with innovations which the other States could follow or reject on the basis of their results. For example, the income tax of Wisconsin and the retail
sales tax of Mississippi quickly spread to other States. Cooperation and consultation among the States for their common benefit was rapidly replacing the older rivalries and competitions. In 1892 a National Conference of Commissioners on Uniform State Laws was established. In 1925, the American Legislators' Association was founded as an agency for cooperation among the state governments in the never-ending search for more imaginative and efficient programs, methods, practices, and ideas. That organization moved haltingly along until 1933 when it became the Council of State Governments with official articles of organization. The Council continues to supply the States with valuable information and assistance with their problems and their relations with each other and with the federal government.

Like the federal government and the American people as a whole, state governments faced many challenges in 1932. Clearly, however, they would continue to play an indispensable role in the everyday life of the American people and in the preservation of American freedom and security.
A TIMETABLE OF WORLD, NATIONAL, AND STATE EVENTS
1820–1932

1820  Census of population: 9,638,453; Maine statehood; Monroe reelected President for second term.
1821  Missouri statehood.
1823  Monroe Doctrine.
1824  Andrew Jackson, Henry Clay, and John Quincy Adams fail to win electoral college majority; U.S. House elects Adams as President.
1825  Erie Canal opened.
1827  Slavery abolished in New York.
1828  Andrew Jackson elected President; First passenger railroad in U.S. (B&O).
1830  Census of population: 12,866,020.
1832  Jackson reelected President for second term.
1835  Texas War of independence.
1836  Arkansas statehood; Martin Van Buren elected President; Connecticut passes first incorporation law in U.S.; Battle of the Alamo.
1837  Michigan statehood; Banking panic throws U.S. into depression.
1840  Census of population: 17,069,453; William Henry Harrison elected President.
1841  Harrison first President to die in office, succeeded by John Tyler.
1842  Prigg v. Pennsylvania denies state obligation to enforce Fugitive Slave Laws.
1844  James K. Polk elected President.
1845  Florida and Texas statehood.
1846  Iowa statehood; Maine prohibits sale of liquor; Mexican War.
1848  Wisconsin statehood; Zachary Taylor elected President; California Gold Rush; U.S. and Mexico sign peace treaty.
1849  California constitution prohibits slavery.
1850  Census of population: 23,191,876; California statehood; President Taylor dies, succeeded by Millard Fillmore.
1852  Franklin Pierce elected President.
1853  Gadsden Purchase negotiated with Mexico.
1855  First kindergarten in U.S. opens at Watertown, Wisconsin.
1856  James Buchanan elected President.
1857  Dred Scott decision of U.S. Supreme Court; Minnesota outlaw slavery.
1858  Minnesota statehood.
1859  Oregon statehood; Supreme Court upholds Fugitive Slave Act.
1860  Census of population: 31,443,321; Southern Legislatures proclaim right of secession; Abraham Lincoln elected President; South Carolina secedes from the Union.
1861  Kansas statehood; Mississippi, Florida, Alabama, Georgia, Louisiana, and Texas secede from the Union; 7 seceding States draft Confederate Constitution and elect Jefferson Davis President; Virginia, Arkansas, Tennessee, and North Carolina secede—Confederacy now complete; Confederates fire on Fort Sumter; West Virginia breaks away from Virginia and remains loyal to Union.
1862  First federal income tax; Lincoln issues Emancipation Proclamation; Homestead Act.
1863  West Virginia statehood; Battle of Gettysburg; Gettysburg Address.
1864  Nevada statehood; Lincoln reelected President for second term.
1865  Lee surrenders; President Lincoln assassinated, succeeded by Andrew Johnson; 13th Amendment (abolishing slavery) ratified.
1867  Alaska purchased from Russia; Nebraska statehood.
1868  President Johnson impeached, tried, acquitted; 14th Amendment (granting Negroes citizenship) ratified; Ulysses S. Grant elected President; 14th Amendment (citizenship rights) ratified.
1869  Wyoming Territory passes first U.S. women suffrage law; Transcontinental railroad completed.
1870  Census of population: 38,558,371; 15th Amendment (equal rights of citizens to vote) ratified.
1872  Grant reelected President for second term; Amnesty Act restores civil rights to all citizens of the South.
1875  Congress passes first Civil Rights Act to guarantee equal rights to Negroes in public accommodations and jury duty.
1876  Colorado statehood; Disputed presidential election, special electoral commission declares Rutherford B. Hayes President; Custer's Last Stand.
1880  Census population: 50,155,783; James A. Garfield elected President.
1881  President Garfield assassinated, succeeded by Chester Arthur; Court declares imposition of 1862 income tax unconstitutional.
1883  Supreme Court invalidates Civil Rights Act saying federal government can only protect political, not social rights.
1884  Grover Cleveland elected President; Financial panic in New York.
1886  Statue of Liberty erected on Liberty Island, New York.
1888  Benjamin Harrison elected President.
1889  North Dakota, South Dakota, Montana, and Washington statehood.
1890  Census of population: 62,947,714; Idaho and Wyoming statehood; Last major Indian-U.S. conflict, Battle of Wounded Knee.
1892  Grover Cleveland elected President.
1895  Supreme Court declares income tax unconstitutional.
1896  Utah statehood; Supreme Court establishes...
separate but equal doctrine thus legalizing segregation; William McKinley elected President.

1898 Annexation of Hawaii; Congress declares war on Spain; Signing of Peace of Paris ending Spanish-American War; Spain cedes Guam, Puerto Rico, and the Philippines to U.S.

1899 Samoan Islands partitioned by U.S. and Germany, American Samoa organized under naval rule.

1900 Census of population: 75,994,575; McKinley reelected President for second term.

1901 President McKinley assassinated, succeeded by Theodore Roosevelt; Connecticut passes first state law regulating auto speed and registration.

1903 Wright brothers flight in first heavier-than-air mechanically propelled craft.

1904 Theodore Roosevelt elected President; New York subway opened.

1907 Oklahoma statehood; Campaign contributions by corporations forbidden by law to candidates for national office; Georgia, Oklahoma, Mississippi, North Carolina, Tennessee, and Alabama enact “dry” laws; Financial panic in U.S.

1908 William Howard Taft elected President.

1910 Census of population: 91,972,266.

1911 Washington passes first state monopolistic insurance fund in the U.S. (industrial insurance program).

1912 New Mexico and Arizona statehood; Woodrow Wilson elected President.

1913 16th Amendment (income tax) and 17th Amendment (direct election of senators) ratified.

1914 World War I breaks out in Europe.

1916 Wilson reelected President for second term.

1917 U.S. purchases Virgin Islands from Denmark; Puerto Ricans given U.S. citizenship; U.S. declares war on Germany.

1918 Armistice.

1919 18th Amendment (prohibition) ratified; Senate refuses to ratify League of Nations.

1920 Census of population: 105,710,620; 19th Amendment (women’s suffrage) ratified; Warren G. Harding elected President.

1923 President Harding dies, succeeded by Calvin Coolidge.

1924 Coolidge elected President.

1925 Trial of John T. Scopes for teaching evolution; First women Governors, Wyoming and Texas.


1929 Herbert Hoover elected President.

1930 Census of population: 122,775,046.

1931 “Star-Spangled Banner” officially declared U.S. national anthem.

1932 Wisconsin passes first unemployment insurance law in the U.S.; Franklin D. Roosevelt elected President.
As W. Brooke Graves noted, "the period of the two World Wars and the Great Depression subjected the States to many new burdens and responsibilities, few of which they were able to discharge adequately. Their most conspicuous failures . . . occurred during the . . . Depression." For years before then, the States had simply "not been doing their job," and the Depression caught them out. Indeed, after President Franklin D. Roosevelt declared the bank holiday, "it was clear that the states were not only weak, they were so weak that they did not even have to be considered." Not surprisingly, the States began to be subjected then to a series of indictments and attacks. Even so eminent a student of government and administration as Luther H. Gulick wrote in despair,

"Is the State the appropriate instrumentality for the discharge of . . . [important] functions? The answer is not a matter of conjecture or delicate appraisal. It is a matter of brutal record. The American state is finished. I do not predict that the states will go, but affirm that they have gone."

The difficulties that led Gulick to such a pessimistic conclusion were both financial and administrative. The Depression caught the States, even as it did the entire Nation, unprepared. State tax laws were antiquated, their tax rates and debt ceilings were low, they made extensive use of designated revenue and segregated funds. The States found themselves with their backs to the wall by the early 1930s with no surpluses, revenues declining as unemployment increased and industry shut down, and expenses rapidly spiraling as citizens required governmental assistance. There was nowhere to turn but to the national government. What made it worse was the laxness of state banking controls at the time, which led to the failure of state-chartered banks across the Nation and thus to an even faster eroding of public faith in the States.

Even if the States had had the financial resources—and some States were better off than others—most of the States would have had administrative problems gearing up to meet the changing needs of the 1930s. Virtually all the States had small public services at the onset of the Depression, with staff trained chiefly by experience even as they had been recruited chiefly for political reasons, and unequipped to handle the kind of welfare and social services demanded of them.

Moreover, the worst impact of the Depression was on the cities. Yet State Legislatures, then 30 years away from the ameliorating effects of Baker v. Carr, were

---

*Mr. Leach is Professor of Political Science at Duke University.


Author's note: Were W. Brooke Graves still alive, he would surely have been asked to do this section of the analysis. No one would have been more qualified. Because his *American State Government* is still the best single work on the States, I have drawn on it and on his *American Intergovernmental Relations* heavily here. In this way, I hope to do him the honor he deserves. Every student of state government is in Graves' debt for a long time to come.


^Luther H. Gulick, "Reorganization of the State," *Civil Engineering*, August 1933, p. 420.
so rurally oriented that effective policy-making to meet urban problems seemed impossible. As Professor Coleman Woodbury put it, most state governments showed “little foresight or rigor of approach” in the face of the mounting urban crisis. They seemed “blind to the clear handwriting on the wall, [hid] behind differences of opinion expressed by non-official groups, and then, when the accumulated problems [had to be faced] came up with half-hearted measures that [were] too little, too late, and too shortsighted.”

RISE OF CENTRALIZATION

It is little wonder then that Gulick and others saw so little to hearten them in the States. But it is a wonder that they had so little faith in the federal system of which the States were a part, for the national government stepped into the breach and set in motion a series of measures which began to turn the Nation— and the States—toward recovery. In the process, a wave of centralism spread over the country which was eventually to challenge the States as nothing had before, for President Roosevelt did not see his New Deal program as restricted to meeting the exigencies of the Depression. He realized that the tremendous potentialities for social betterment—for moving closer to the ideal of equality—was latent in positive government action. Thus he consciously forged his programs so as to convert them to realities. “The plans we make for this emergency,” he declared, “may show the way to a more permanent safeguarding of our social and economic life to the end that we may . . . avoid the terrible cycle of prosperity crumbling into depression. In this sense I favor economic planning, not for this period alone but for our needs for a long time to come.” The kind of planning Roosevelt introduced necessarily required a strong national government, exercising more responsibility for achieving the national welfare than had been visualized since the days of Alexander Hamilton.

As the national government responded to what has been called the “tin cup parade” of Governors and mayors to Washington, it became part of what William Leuchtenberg observed was a near revolution in the agenda of American politics by Roosevelt and the New Dealers. They focused on the national government to an unprecedented degree as the center for problem-solving and decision-making. Its concerns were made to become for the first time the concerns of the American

— Quoted in Graves, American Intergovernmental Relations, p. 788.
people themselves. In the process, the balance of federalism was shifted from the state capitols to Washington. The White House, not the State House, "became the focus of all government—the fountainhead of ideas, the initiator of action, the representative of the national interest."^8

World War II continued and strengthened the response started in the Depression. In mounting our defense and in fighting on so many fronts, centralization was not only inevitable but vital to the success of the war effort. To be sure, the States collectively made a great contribution to the war effort, not only in the role played in winning the war by the National Guard units of the States, but also in their administration of the Selective Service System and of the many programs of civil defense and in the steps taken in many States toward the development and promotion of wartime industry. Moreover, state administrative officials rendered important assistance in carrying out the Nation's rationing program and in assisting in the conservation of transportation. More than ever before, however, the center of gravity of the American governmental system was in Washington. A multitude of federal agencies now dealt with technical matters and made decisions on a case-by-case basis. Drastic changes in policy became fixed in precedent without public approval or consultation with the States. Sometimes the most important matters were resolved by federal civilian and military officials who invoked the labels of "confidential" or "top secret" to classify information or screen operations from view altogether.

Not only were the States even more upstaged by the national government than they had been in the Depression, they also suffered a number of other ill effects during the war as well. They had drastically curtailed the services they offered their citizens and could not develop new ones, they had virtually suspended improvements in government and administration for the duration, and they had suffered severe personnel losses which were difficult if not impossible to make up. Indeed, World War II served to push the States even further into the chimney corner of American government. When the war was over, States were faced with the necessity of resuming and greatly expanding their services, both those relating to social and economic development and to public works and physical development. "The problem," noted Graves, was not "merely one of catching up with wartime delays and postponements but of evolving new patterns and standards of service in many fields for a rapidly growing population."^7 Action was especially necessary in the fields of health and education, although in most States the needs ranged across the spectrum of state and local services. To meet these needs both quantitatively and qualitatively, the States quickly found it necessary to turn to the national government for financial aid. The categorical grant shortly became the main feature on the federal-state fiscal landscape, its use attractive to the national government as well because it enabled it to take the initiative in public policy development. With federal planning and financing, and state administration, many program areas became intergovernmental in nature and have remained so.

Not only were there service demands to be met after the war, but the States were also faced with urbanization on a grand scale, and so, responsible as they are for local government, the States had to make a great many adjustments in traditional patterns of local governance. In some cases it was necessary for the

---

States to take on responsibility for services formerly left to local units; in others, the States had to devise new methods of assistance and control; and in most, the States had to develop ways to strengthen the institutions of local government and to permit units of local government to work together to attack areawide problems more effectively.

The burden of this on the States and the difficulties they had in bearing it served to confirm the early judgments of the doomsayers. It began to seem to many that in fact the national government was the only important government and that the States would inevitably fail to act adequately—and, some alleged, even honestly—in behalf of their citizens when action was needed.

A Swing of the Pendulum

Yet as Graves noted, "Like the famous report of the death of Mark Twain . . . [pro]nouncement of the demise of the states was . . . premature." Even before Watergate, which significantly demoted the national government in public estimation, careful students of public affairs had begun to see the makings of a swing of the pendulum back to the States. Some of the credit for the rediscovery of the States must be given to recent changes in procedures and attitudes by the public media, which found relief from its depression over Watergate by turning back to the States.

To some extent, the swing back to the States was helped along by the national government itself. In its push to find ways to meet national objectives through state and local governments, the Great Society of the late 1960s made a contribution of considerable importance. Not only did the national government offer a good many carrots to the States to lead them to self-improvement—the effect of Title V of the Elementary and Secondary Education Act of 1965 on state departments of education is but one of many examples—but, by unwittingly demonstrating the limits of national effectiveness in delivering services to the American people, it helped force the States to play a larger role than most of them had been willing to take.

A good deal of credit too can be given to the Advisory Commission on Intergovernmental Relations, the Council of State Governments, the National Governors' Conference, the three national legislative conferences (now the National

8Ibid., p. 787.
Conference of State Legislatures), and other such bodies whose studies and recommendations showed the States how to organize and operate more effectively.

Finally, the federal courts—particularly the U.S. Supreme Court—bear a large amount of responsibility for getting the States back on the main track of American government. Having given up its generation-long battle against the development of an active national government in the economic sphere, the Supreme Court began to devote its attention to civil liberties, and in the process of focusing on them, instituted still another wave of action impacting on the States. In Brown v. Board of Education [347 U.S. 483 (1954) and 349 U.S. 294 (1955)] the Court demanded that the States eliminate distinctions based on race or color in the public schools and do so "with all deliberate speed." Although it took steady judicial pressure, culminating in the angry retort in Griffin v. Prince Edward School Board [377 U.S. 218 (1964)] that there had been "entirely too much deliberation and not enough speed," corrective action by the States was steadily achieved, and full compliance is nearly a reality. In the process, the States have successfully defended their constitutional primacy in education.

Similarly, Baker v. Carr [369 U.S. 186 (1962)] forced attention to be focused by the States on the reapportionment of Legislatures, with the result that today's general assemblies are about as representative of the people of the States as is politically possible. The Civil Rights Acts of 1957 and 1964 and the Voting Rights Act of 1965, duly enforced and upheld by the courts, forced the States to reform election administration.

If there were outside influences helping to put the States back in the United States, the major credit for the accomplishment belongs to the States themselves, acting as responsible agents of their people. Indeed, they had been working all along in that way, some harder and more successfully than others, but none oblivious to their ultimate responsibility in the American federal system.

Cooperative federalism could never have become the successful modus operandi of the American Nation it is today—and has been for many years—had it not been that the States realized that much was demanded of them by the concept and acted accordingly. They carried on the executive and legislative reorganization movement with far more care and perseverance than the national government. Today almost every State is structurally equipped to meet modern demands on government. Constitutional revision has likewise proceeded apace. No longer can the constitution of Louisiana be cited as the chief horror of constitutional government, and Louisiana is typical, not atypical, of her sister States. There are not many constitutional horrors left. The States have moved similarly in education, mental health, recreational development, and in other fields too numerous to examine completely here.

With public distrust of elected officials at an all-time high in 1974, a majority of States took action to make state governments more accountable to the people through open government, campaign financing, and financial disclosure laws. When these state actions are compared to those at the federal level, their importance is all the more striking. In another contrast to the federal government, the States were quicker to act on at least the short-term challenges of the energy crisis.

The States have begun to reap the rewards of a series of actions taken over the past few years to strengthen and broaden the base of their tax systems, particularly in moving to a state income tax on the one hand and in finding relief for overburdened property taxpayers, especially the elderly, on the other. As a result of
their improved revenue picture, some States were showing budget surpluses in 1974 for the first time since World War II. The economic decline of 1974 and 1975 dimmed that picture somewhat. The States had some catching up to do in the environmental area and did so with such vigor that the Council on Environmental Quality concluded that "changes in individual projects, changes in agency attitude, and increased public participation are evident in each State."

The States have not merely caught up; they have again demonstrated their ability to move out front. A case in point is the "Minnesota Horizons" program in which legislators and state government officials joined with educators, public interest groups, the media, and others for discussions of the State's past, current status, developing trends, and imminent policy questions. It marked the first time that a legislative body sought to undergird its actions with an integrated view of constituent problems so as to avoid fragmented approaches commonly applied to broad policy questions. It is noteworthy that a State Legislature undertook the exercise rather than Congress. The lesson should not be lost either by other States or Congress.

THE PUBLIC REACTION

The assertion of state leadership has not been confined to those elected to office or serving in administrative capacities. Obviously, such an assertion on their part without the backing of the people would avail only in the short run. But the days are waning that Terry Sanford described in 1967, when he wrote that "in judging the achievements of state government, it is well to remember that the people have not wanted strong [government]; they have not been willing to put the authority and the implements in the hands of the [men] called on by them to lead. . . . They have been willing to have a strong . . . national government, but unwilling to provide the power necessary for [effective] state government."^0

A poll conducted three times since 1972 under the auspices of the Advisory Commission on Intergovernmental Relations asking the public, "From which level of government do you feel you get the most for your money—federal, state, or local?" revealed the following changing responses:

<table>
<thead>
<tr>
<th>Level of government</th>
<th>March 1972</th>
<th>May 1973</th>
<th>April 1974</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
<td>39</td>
<td>35</td>
<td>29</td>
</tr>
<tr>
<td>State</td>
<td>18</td>
<td>18</td>
<td>24</td>
</tr>
<tr>
<td>Local</td>
<td>26</td>
<td>25</td>
<td>28</td>
</tr>
<tr>
<td>Don't know</td>
<td>17</td>
<td>22</td>
<td>19</td>
</tr>
</tbody>
</table>

Though the question admittedly was limited to economic considerations, its centrality to the general status and performance of state government probably permits the assumption that the change applies there too. In any case, the 1974 elections show a responsive state public pretty much across the land. Not only did a woman run and get elected as a Governor in her own right, but many women and blacks were elected to State Legislatures, whose members in turn reflect the urban pattern of American living better than ever before. Moreover, the voters approved a number of progressive propositions at the ballot box.

^Terry Sanford, *Storm over the States* (New York, 1967), p. 31. Sanford was speaking only of Governors in that passage, but to change it to read as given does not stretch his meaning.
CONCLUSION

In short, the rhetorical question "Are the States here to stay?" can now be answered definitely in the affirmative. Indeed Daniel Elazar, a leading observer of state performance, has found that a "quiet revolution . . . has transformed state government . . . to a solid instrument for meeting the complex needs of American society today." He said there is more than enough evidence "to show that the States and localities, far from being weak sisters, have actually been carrying the brunt of domestic governmental process in the United States ever since the end of World War II and have done so at an accelerated pace since . . . Vietnam."10

The mid-1970s find the States working on the challenges they face with considerable fortitude: they are becoming more financially and administratively involved in helping to solve pressing urban problems, they are making progress in equalizing and assuming a larger portion of the financial burden of elementary and secondary education, they are concerned about more effective land use, and they are making it easier for their local governments to tackle problems both by themselves and jointly.

Thus, the Bicentennial offers a unique opportunity to put The Maligned States, as Ira Sharkansky called them in his 1975 book, back in the proper perspective. The state of the States is good.

The States have served before as the guides to progress, and it appears they are in that position again. The health of the Nation has long been known to depend on the maintenance of a balance of power, and the States are ready and willing to carry their full burden as the United States enters its third century of existence.

A TIMETABLE OF WORLD, NATIONAL, AND STATE EVENTS 1933–1976

<table>
<thead>
<tr>
<th>Year</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>1933</td>
<td>20th Amendment (terms of President and Vice President) and 21st Amendment (repeal prohibition) ratified; Severe drought in Great Plains; New Deal begins.</td>
</tr>
<tr>
<td>1935</td>
<td>Social Security Act passed.</td>
</tr>
<tr>
<td>1936</td>
<td>Roosevelt reelected President for second term.</td>
</tr>
<tr>
<td>1939</td>
<td>World War II begins.</td>
</tr>
<tr>
<td>1940</td>
<td>Census of population: 131,699,275; Roosevelt reelected President for third term.</td>
</tr>
<tr>
<td>1941</td>
<td>Pearl Harbor attacked by Japan; U.S. declares war on Japan, Germany, and Italy.</td>
</tr>
<tr>
<td>1942</td>
<td>First self-sustaining nuclear chain reaction achieved; Alaska Highway constructed.</td>
</tr>
<tr>
<td>1943</td>
<td>Army takes temporary possession of railroads to prevent strike.</td>
</tr>
<tr>
<td>1944</td>
<td>Invasion of France by Allies; Roosevelt reelected for fourth term; Total union membership of over 14 million is more than one third of non-agricultural labor force.</td>
</tr>
<tr>
<td>1945</td>
<td>President Roosevelt dies, succeeded by Harry S. Truman; Germany surrenders; Testing and use of atomic bomb; Japan surrenders; United Nations organized; New York establishes first state antidiscrimination agency; Federal government seizes coal mines during a long strike.</td>
</tr>
<tr>
<td>1948</td>
<td>Dixiecrats bolt the Democrats in election campaign; Truman elected President; General Motors signs first sliding-scale wage contract; Supreme Court declares religious education in public schools unconstitutional.</td>
</tr>
<tr>
<td>1950</td>
<td>Census of population: 150,697,361; President authorized to stabilize wages and prices; Korean War begins; U.S. seizes Nation's railroads to avert strike.</td>
</tr>
<tr>
<td>1951</td>
<td>22nd Amendment (limiting presidency to two terms) ratified; Employment of women reaches new peak of over 19 million; Supreme Court upholds released time for religious education.</td>
</tr>
<tr>
<td>1952</td>
<td>Dwight D. Eisenhower elected President; U.S. announces first successful tests of hydrogen bomb; U.S. seizes Nation's steel mills to avert strike, seizure ruled illegal by Supreme Court, strike follows.</td>
</tr>
<tr>
<td>1953</td>
<td>Puerto Rico given commonwealth status; Tidelands oil controversy ends in favor of coastal States; Department of Health, Education, and Welfare established; Korean War ends.</td>
</tr>
<tr>
<td>1954</td>
<td>Racial segregation in public schools ruled unconstitutional by Supreme Court.</td>
</tr>
<tr>
<td>1955</td>
<td>Supreme Court gives local authorities task of integrating schools.</td>
</tr>
<tr>
<td>1956</td>
<td>Federal Highway Act provides for vast road-building projects; Soil-Bank Act encourages limited farm-acreage production; Montgomery, Alabama, bus boycott brings Dr. Martin Luther King, Jr., to national prominence; Eisenhower reelected President for second term.</td>
</tr>
<tr>
<td>1957</td>
<td>Russia launches Sputnik, first satellite; Recession; Civil Rights Act provides for federal regulation of voting.</td>
</tr>
<tr>
<td>1959</td>
<td>Alaska and Hawaii statehood.</td>
</tr>
<tr>
<td>1960</td>
<td>Census of population: 179,323,175; John F. Kennedy elected President; Average American per capita income sets a new high of $2,218.</td>
</tr>
<tr>
<td>1961</td>
<td>Supreme Court upholds some state and local censorship of movies; 23rd Amendment (presidential vote for D.C.) ratified.</td>
</tr>
<tr>
<td>1962</td>
<td>Sharp slump in stock market; Russian missiles in Cuba withdrawn after firm American stand; Supreme Court outlaws New York school prayer; Supreme Court issues one man, one vote ruling.</td>
</tr>
<tr>
<td>1963</td>
<td>President Kennedy assassinated, succeeded by Lyndon B. Johnson; Supreme Court rules that no State or locality may require the recitation of the Lord's Prayer or Bible verses in public schools.</td>
</tr>
<tr>
<td>1964</td>
<td>Supreme Court rules that state legislative districts must be substantially equal in population; U.S. civilian labor forces passes 72 million while unemployment is above 4 million; President Johnson's war-on-poverty program passes Congress; New Civil Rights Act passed; Johnson elected President; 24th Amendment (poll tax barred for federal elections) ratified.</td>
</tr>
<tr>
<td>1965</td>
<td>First American combat troops go to South Vietnam; Beginning of U.S. urban, race riots.</td>
</tr>
<tr>
<td>1966</td>
<td>Inflation becomes serious problem; Medicare program begins.</td>
</tr>
<tr>
<td>1967</td>
<td>25th Amendment (presidential disability and succession) ratified.</td>
</tr>
<tr>
<td>1968</td>
<td>Richard M. Nixon elected President.</td>
</tr>
<tr>
<td>1969</td>
<td>Americans land first men on the moon.</td>
</tr>
<tr>
<td>1971</td>
<td>26th Amendment (lowering voting age to 18) ratified.</td>
</tr>
<tr>
<td>1972</td>
<td>Nixon reelected President for second term.</td>
</tr>
<tr>
<td>1973</td>
<td>Watergate investigation begins; Supreme Court rules abortions legal; Cease-fire agreement signed between U.S. and Vietnam; U.S. energy crisis emerges; Alaska pipeline construction approved.</td>
</tr>
<tr>
<td>1974</td>
<td>Nixon becomes first President to resign, Gerald R. Ford becomes President.</td>
</tr>
<tr>
<td>1975</td>
<td>Supreme Court rules that federal government has exclusive title to oil and gas resources beyond 3-mile offshore limit; South Vietnam falls to Communists.</td>
</tr>
</tbody>
</table>