

Chapter 1

What's at Stake?

In framing a government which is to be administered by men over men, the great difficulty lies in this: You must first enable the government to control the governed; and in the next place to control itself. A dependence on the people is no doubt the primary control on the government; but experience has taught mankind the necessity of auxiliary precautions. . . .

Justice is the end of government. It is the end of civil society. It has ever been, and ever will be pursued, until it be obtained or until liberty be lost in the pursuit.

—James Madison

Two days before President Clinton's second inauguration in January 1997, the historian Garry Wills wrote a cover story on the president [Wills, "Does He Believe in Anything? (Actually, Yes)," *The New York Times Magazine*, January 1997]. What the president believed in, according to Wills, was *government*. An astonishingly flat conclusion? Not at all when considered in context. Given citizens' well-documented mistrust of government's ways and Conservative Republicans' determination to treat government as the peoples' enemy, the president's reported faith in it was a controversial matter of great importance to the nation.

Among government observers, not a few are gravely concerned about the probable long-term effects of the current Republican Conservative agenda to reorganize government, to redistribute, minimize, and, some fear, to virtually dismantle federal government as we've known it. They are

especially alarmed at Conservatives' enthusiasm for "outsourcing" social policy studies to the private sector and "devolving" decisions about creating or implementing most policy actions to states and localities. Since 1996, decisions about policies as diverse as education spending, welfare reform, access to health care by the poor, immigration and immigrants, and environmental protection statutes and enforcement have, by and large, been moved from federal responsibility to the states. In the week before the 1998 midterm election, the *Washington Post* columnist David Broder stated on the television program "Washington Week in Review" that the congressional elections were now "not very important," since most public policy issues are decided by the states.

Even those who concede the need for productive change in the distribution of responsibilities and powers of government are calling now for caution as we think about the kinds of devolution from federal to state control already implemented and proposed. Whatever our political allegiances (Conservative or Liberal, Republican or Democrat, or now, perhaps, Centrist) Americans must understand this: The current debate about minimizing government or about redistributing it from federal responsibility to the states goes straight to the heart of our beliefs and intentions about government's very purposes.

For excellent reasons that we will discuss in chapter 2, the organizers of American democratic government insisted upon a balance of power between the states and localities, on one hand, and the federal government, on the other. Our Federalist approach means that individual states control many aspects of public life through their own constitutions and statutes. They also collect the taxes to meet their individual priorities. In fact, almost half of all spending for domestic purposes (not foreign and military spending) is paid from taxes raised through state and local governments. But states subscribe to superseding federal law, as established by the federal Constitution or by federal courts-approved statutes consistent with it.¹

The Constitution assumes both elected and appointed offices at every level. It stipulates what kinds of responsibilities and powers belong to the federal government and then, in the Tenth Amendment, whose application has generated vital debate since its inclusion in the Bill of Rights, states that all powers not specifically assigned to the federal government belong to the states or to the people.

The themes of the Constitution are almost always protective against the possibility that any individual, group, or political entity might acquire too

much power over any other. Thus, it is primarily about limiting power, not awarding it without safeguards against its misuse. This approach has proven over and over again to serve well in a representative democracy, where federal government is controlled, not only by regularly scheduled elections, but by established differences among terms of office, separation of executive (presidential) powers from those of the legislative and judicial branches, and nearly absolute freedoms of the press and of public assembly.

The strength of America's government by law, under which everyone is to be treated equally, derives from Americans' respect for the systems of government that the Constitution prescribes. In turn, the Constitution derives its strength and resilience, not only from the principles of democracy it represents, but from the balance of powers it describes. From the beginnings of government under the Constitution in 1791, the nation has seen nearly constant tension about whether the states or the federal government should set and administer domestic policy and about how questions of jurisdiction should be decided. Approaching Election 2000, Conservative Republicans successfully shifted the weight of argument away from the federal government and toward the states. They have continued to create imbalances that require thoughtful reconsideration.

"What is at stake in this debate," wrote Linda Feldmann after the Conservative Republican electoral victory in 1994, is "the role of the federal government in Americans' lives—how big the government should be, what functions it should perform, and whether the federal government should provide a safety net for the poor and elderly" (Feldmann, "Historic Debate Over Federal Role," *Christian Science Monitor*, 20 November 1995). Former senator Carol Mosely-Braun (D-IL), in a succinct declaration bringing to mind arguments about the character of American federalism that predate the Constitution, summed it up this way: "We [must decide] again whether or not these United States are one country or a conglomeration of fifty separate entities" (*ibid.*).

So important is the distribution of power issue to our national well-being that virtually all the questions troubling us now may be seen as in some way related to it. The broad debates about it rapidly turn into more specific but equally confounding considerations that dominate the headlines as our most pressing particular policy questions: Who should create policy to govern health care? See to provision for the poor and the elderly? Bear responsibility for improving public education and protecting the environment? Who can address the problems that will increasingly grow from persistent imbalances in wages, wealth, and personal security among

American workers? Who should develop policies to regulate immigration and clarify government's responsibilities to immigrants, once they're in the United States? The *Personal Responsibility and Work Opportunity and Reconciliation Act of 1996* (also called the Welfare Act), which moved most governmental provision for the poor and for immigrants from federal oversight to the control of state governments with widely varying problems, priorities, and resources, is just one illustration of the immediate effects of this structural redistribution on peoples' day-to-day lives.

Recently, new concerns are complicating these already difficult questions: Will a substantially smaller and therefore weaker federal government have sufficient strength to defend and advance the interests of the nation in a world increasingly shaped by immensely powerful, technology-supported transnational associations and interest groups, and by global interdependencies in politics and in the marketplace? How much reduction in our federal government is too much? Might we go so far in redistributing the federal government's powers that we prevent it from maintaining the regulatory and stabilizing characteristics that our society (and our markets) require to function?

For all of the reasons implicit in such questions, making fundamental changes in the organization and roles of our government requires us to understand whether and why change is in our interest. If Americans are to be activists, not mere spectators in matters of governance, we must participate in this debate. Given Conservatives' particular assault upon federal government, Liberals and moderates of both parties must insist on asking, What purposes of government will be better served if responsibility for them is moved from the federal government to the states, localities, or the private sector? And, the inevitable corollary, What purposes might be neglected, or even lost?

What's at stake in the reorganization of government is the possibility of careless change from what Americans have believed about its purposes.