CHAPTER 4

Policy Coercion and Administrative Cooperation in American Federalism

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1 Introduction

In a recent comparative study of five modern federal theorists—Daniel J. Elazar, Carl J. Friedrich, William S. Livingston, William H. Riker, and K.C. Wheare—Michael Burgess1 abstracted from these theorists eight federal values: (1) human dignity, (2) equality, (3) liberty, (4) justice, (5) empathy, (6) toleration, (7) recognition, and (8) respect. He also abstracted eight federal principles paired with those values respectively: (1) autonomy, (2) partnership, (3) self-determination, (4) comity, (5) loyalty (Bundestreue), (6) unity in diversity, (7) contractual entrenchment, and (8) reciprocity or mutuality.

These values and principles are wonderfully noble; yet, in an era of high political polarization,2 low public trust and confidence in governments, especially the federal government,3 and coercive federalism,4 they evoke, in the United States, nostalgia for the days of bipartisanship, high levels of public trust and confidence in governments, and cooperative federalism that seemed

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to prevail when all five theorists produced most of their work on American and comparative federalism. Four of the theorists were American, and all wrote major works during the heyday of what was commonly called ‘cooperative federalism’.5

Today, the eight federal values have been substantially nationalized, perhaps mainly because, as Alexis de Tocqueville predicted, the people’s desire for equality would drive government toward centralization.6 The federal principles set forth by these theorists, especially partnership, comity, and reciprocity, hark back to the bygone days when the US Advisory Commission on Intergovernmental Relations7 and state advisory commissions on intergovernmental relations8 were pinnacle institutional expressions of cooperative federalism. Those institutions are gone, as are the days of the American partnership so beloved by Dan Elazar.9 Instead, as US Senator Carl Levin (D-MI) commented to me in 1988, “there is no political capital in intergovernmental relations,” that is, in catering to the concerns of governors, state legislators, county commissioners, mayors, township supervisors, and the like. Reflecting this centrist orientation is the fact that about 50 per cent of senators and 42 per cent of congressmen who leave Congress remain in Washington, DC, compared to only about 3 per cent who did so near the outset of coercive federalism in 1974.10

State and local officials continue to lobby federal officials, but they are rarely partners in federal policy-making, although many are now partisan cheerleaders for and ‘boo-hurlers’ against federal policy developments. State and local officials usually gain no federal policy concessions or only minor concessions on their own. They ordinarily garner major federal policy concessions only when powerful non-governmental interests are aligned with state and local

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