Introduction

This book is a thought experiment. It invites you to imagine an America without state government. The hypothesis it tests is that, all things considered, the national interest of the United States would be better served by a two-layer (national and local government) unitary system than by the current three-layer (national, state, and local) federation. In that hypothetical system, the functions currently performed by state government would be redistributed among the national government, the local governments, and various inter-government partnerships. The country would cease to be a union of states. It would become a union of its people.

This exercise – one that the scholarly literature has not yet undertaken – requires a careful, objective weighing of both the benefits and the costs of state government in the United States. That evaluation encompasses, but goes beyond, the traditional debates over federalism. The question considered here is not merely whether the US can do without federalism, but whether it can do without state government entirely. Those are different inquiries. While it is impossible to have federalism without political subdivisions, it is very possible to have political subdivisions without federalism. Indeed, unitary systems in which the subunits are mere subordinates of the central government are commonplace in today's world.[1] In such a unitary system, it seems fair to ask how many levels of subordinate units are optimal. This book suggests that for the United States, the answer is one – local government.[2]

After a brief historical summary of how the US came to be a federation of states, the book proceeds in two broad steps: The first step is to demonstrate the harms for

[1] As of 2024, the number of countries in the world ranges from 193 to 237, depending on one's definition of "country" and on certain international political judgments. The United Nations recognizes 195 countries. See, for example, Toby Saunders, BBC Science Focus, *How Many Countries Are There in 2024?* (Jan. 5, 2024), www.sciencefocus.com/planet-earth/how-many-countries-are-there. Of these, only about twenty-five are federations, though they account for approximately 40 percent of the world's population. Forum of Federations, *Federal Countries*, https://forumfed.org/countries/#:~:text=There%20are%20roughly%2025%20federal,%2C%20Brazil%2C%20Germ*any%20and%20Mexico.

[2] For reasons detailed in Chapter 4, this book assumes that local government is indispensable. On that assumption, the one-subordinate-layer option would entail the elimination of state government rather than local government.

which state government can fairly be held responsible. Of these, by far the most serious is the continuing toll it has taken, and continues to take, on two of America's most sacred democratic norms – political equality and majority rule. Between the outsized status and powers that the US Constitution confers on the states (Chapter 2) and the ways in which state legislatures and state officials have deployed those powers (Chapter 3), state government will be shown to have become *the* root cause of many, if not most, of the gravest threats to US democracy. Examples are noted below. Chapter 4 will show that state government is also a source of fiscal waste. Three levels of legislative bodies, three levels of bureaucracy, three levels of regulation, and three levels of taxation will be shown to be unnecessary; two of each, it is submitted, would do just fine.

The second step in the argument is to identify and engage the many offsetting contributions that have been, or might be, claimed for state government. Most of those claimed benefits (Chapter 5) are modified versions of arguments drawn from the literature on federalism. That chapter demonstrates that the many virtues commonly ascribed to federalism, while facially attractive, become far less convincing under a microscope.

The elimination of state government would require several difficult secondary decisions. Who, for example, would decide which of the current state functions should be nationalized and which ones should be localized? Who would assume the states' current roles in national elections, in supplying the bulk of the country's judges, or in the constitutional amendment process? Chapter 6 identifies workable, if not ideal, answers to each of those questions. In the process, it offers a portrait of what a unitary American republic might look like without state government.

In the end, every experiment needs an outcome. Here, I submit, the conclusion will be clear: In today's America,[3] state government is an anachronism. Politically unavoidable as it was at the founding of the republic, it has outlived whatever value it ever added and in fact has become an impediment to both government efficiency and, more importantly, democracy itself. In an ideal world, it would be but a historical remnant, stuffing the same dustbin as monarchy, slavery, the disenfranchisement of women and people of color, and lawyers with wigs.

Ours, of course, is not an ideal world, and I do not labor under the delusion that the abolition of state government is anywhere on the immediate horizon. Given the combination of entrenched interests, culture wars, deep sentimental attachments, widespread distrust of the federal government, and both partisan and ideological differences that are unevenly distributed both among and within the various geographic regions, I must acknowledge that the constitutional transformation suggested here has no short-term political traction. At present, there is no conceivable

[3] Although this book contains scattered references to other countries' practices, it does not attempt a comparative study. I offer no opinions about the usefulness of states or their analogs in other federations.

path to the sweeping series of constitutional amendments that would be required. Among other barriers, I cannot foresee the necessary three-fourths of the state legislatures voting to abolish themselves any time soon.

Hence the humble description of this book as a thought experiment. But, unlike the book itself, the national conversation that it seeks to inspire would have both scholarly value and significant practical benefits.

The intended scholarly contributions are twofold. First, my goal is to expand the scope of the current debates over the fragile state of US democracy. The existing writings have collectively highlighted the substance of many of the looming dangers. Yet, amidst the plentiful scholarly and popular calls to heed the grave perils facing US democracy, no writing that I can find attempts to trace all or most of the problems to a common source. This book builds on that literature by highlighting state government as the root of the problem. The hope is that the arguments presented will spur a serious conversation about the wisdom of entrusting the core elements of US democracy to the states.

Second, and more broadly, the prolific body of federalism scholarship has elaborated the pros and cons of dividing government powers between a central authority and the sovereign states. In the process, it has offered diverse visions of federalism and other decentralization models. But the arguments of even the most impassioned federalism skeptics have generally focused either on matters of degree (what is the optimal division of power between the federal government and the states?) or on whether federalism should give way to a unitary, but still decentralized, system in which the states play subordinate, but still important, governance roles.[4] This book aims to expand that debate as well, by asking whether the benefits of decentralization could be more effectively achieved without state government – that is, by dividing power between the central government and the existing local governments.[5]

Theory aside, the national conversation that this book seeks to jump-start would have several potential practical benefits. First, while the states' immediate future is secure, history teaches us that the more distant future is full of surprises. Today's fantasies have a way of becoming tomorrow's realities. But those new realities don't materialize out of thin air. Gradual changes in public opinion are almost always a precondition for other fundamental changes. This book, therefore, takes a long-term view. By planting an idea, it seeks to lay the groundwork for an evolution in the

[4] For an excellent article advocating decentralization without federalism (but retaining key roles for the states), see Edward L. Rubin & Malcolm Feeley, *Federalism: Some Notes on a National Neurosis*, 41 UCLA L. Rev. 903 (1994).

[5] A word on terminology: In the United States today, the terms "federal government," "national government," and "central government" are commonly used interchangeably. This book similarly uses both terms when discussing the current US federal system. But without state government, the word "federal" would lose its meaning. When discussing the elements of a hypothetical unitary republic, therefore, this book will refer to either the "central government" or the "national government."

public's attitudes toward state government. In the long term, the prospects for even massive structural transformation should not be ruled out, as long as the arguments for change are compelling and the advocacy is patient but persistent.

Second, I hope to blunt the rhetorical impact of "states' rights" as a political slogan. Too often, these words have been nothing but code for the denial of individual rights – a perversion of the fundamental democratic principle that it is the job of the state to serve the people, not vice versa. When confederates raised the states' rights banner during the Civil War, no one was unaware that slavery was the particular "right" that the southern states felt they deserved to have – in fact, a right important enough to secede from the union over. *New York Times* columnist Jamelle Bouie has offered some dramatic examples of the democratic liberties that the legislatures of slave states were willing to extinguish in order to crush the antislavery movement.[6] Nor, as this book will demonstrate, did self-styled "states' rights" campaigns end with the Civil War; they continue to surface today in service of other troubling positions.

Third, greater skepticism about the value of state government will hopefully trigger more intensive public scrutiny of state legislators and governors. Ideally, that scrutiny will sharpen popular resistance to at least the more flagrant assaults on democratic rule.

Finally, in recognition of the reality that state government will be with us for some time to come, this book has an additional goal, one more modest and more immediate: to persuade you, the reader, that the social, economic, and political costs of state government are greater, and the benefits fewer, than is commonly assumed. The corollary hope is that those costs will then be weighed more seriously whenever the decision whether to entrust a specific function to the federal government or the states becomes a live issue. It often does. Today, for example, that "who decides?" question engulfs such controversial subjects as gun safety, immigration, abortion, environmental protection, and public health.

Primary attention will be focused on the democratic costs of state government, for those are both the weightiest and the most diverse of the harms. The decline of democracy in recent years is not, of course, limited to the United States; it is now a worldwide concern, especially in Europe, and it has multiple causes.[7] But the American case, when viewed against our historical and enduring embrace of a landmark experiment in democracy, is particularly unsettling.

[6] Jamelle Bouie, *The Real Threat to Freedom Is Coming from the States* (May 26, 2023), www.nytimes.com/2023/05/26/opinion/freedom-states-rights.html?campaign_id=39&emc=edit_ty_20230526&instance_id=93535&nl=opinion-today&regi_id=137882548&segment_id=133976&te=1&user_id=e16deb82e8516f294a4077a86c02f5c2. Bouie's powerful commentary is highlighted in Chapter 4, Section B.

[7] See, for example, Samuel Issacharoff *et al.*, The Law of Democracy – Legal Structure of the Political Process 44–46 (6th ed. 2022); Freedom House, *Democracies in Decline*, https://freedomhouse.org/issues/democracies-decline; Reuters, *Half of World's Democracies in Decline, Intergovernmental Watchdog Says*, www.reuters.com/world/half-worlds-democracies-decline-intergovernmental-watchdog-2022-11-30/.

Some of the current problems stem from the dominant role of state sovereignty baked into the US Constitution. These problems flow from the historical constitutional compromise between Antifederalists who believed that the national government should represent the sovereign states and Federalists who believed that in a democratic republic the national government should represent the people more directly. As others have observed, and as Chapter 2 will elaborate, the constitutional problems include the awarding of two senators to each state regardless of population; the Electoral College; the counter-majoritarian process for appointing federal judges; and the requirements for amending the Constitution.

Superimposed on those structural breaches of democratic norms are the many counter-majoritarian actions of state legislatures and state executive branch officials: state legislatures that gerrymander both congressional and their own state legislative districts with near impunity; the epidemic of ever more creative – and more ruthless – state voter suppression laws; the threats by state election officials and candidates for those offices to withhold certification of valid electoral outcomes; the ominous efforts to resuscitate the discredited "independent state legislature" theory, which has been invoked to place state legislatures' gerrymandering and voter suppression efforts beyond the reach of the federal courts and potentially even state courts[8]; state-enabled intimidation of voters and election officials; and state legislatures' usurpations of decisions traditionally, and wisely, left to local governments.

Too often, these efforts have purposely targeted African American and other minority voters, threatening to undo decades of social progress. Each of those features gives some citizens far more say than it gives others, undermining the goal of political equality and thereby simultaneously impeding the principle of majority rule. In part for those reasons, public faith in the institutions of government is at an all-time low. We have reached the point where, this book contends, we can no longer take for granted the long-term stability of the bedrock electoral and other institutions on which democracy rests.

I applaud the legions of thoughtful scholars who have called out many of these assaults on our democracy.[9] Several of these writers have offered constructive

[8] As discussed in Chapter 3, Section C, the Supreme Court recently mitigated this danger but stopped short of extinguishing it.

[9] In recent years, many books have highlighted the fragile state of democracy, both in the United States and worldwide. The long list of examples includes Jack M. Balkin, The Cycles of Constitutional Time (2020); Ari Berman, Minority Rule: The Right-Wing Attack on the Will of the People – and the Fight to Resist It (2024); James W. Ceaser, Presidential Selection: Theory and Development (1979); Tom Ginsburg & Aziz Z. Huq, How to Save a Constitutional Democracy (2018); Mark A. Graber, Sanford Levinson & Mark Tushnet (eds.), Constitutional Democracy in Crisis? (2018); Richard L. Hasen, A Real Right to Vote: How a Constitutional Amendment Can Safeguard American Democracy (2024); Steven Levitsky & Daniel Ziblatt, How Democracies Die (2018); Steven Levitsky & Daniel Ziblatt, Tyranny of the Minority (2023); Benjamin I. Page & Martin Gilens, Democracy in America? (2017); Ganesh Sitaraman, The Crisis of the Middle-Class Constitution (2017); and Cass Sunstein (ed.), Can It Happen Here? Authoritarianism in America (2018).

proposals to curb some of the more insidious abuses. But my view is that the problem runs deeper than even the sum of these transgressions. The fundamental problem, I argue, is state government itself. Without it, far fewer of these subversions could occur, as will be shown.

Yet, even those who have rightly raised the alarm have stopped short of proposing the abolition of state government.[10] And understandably so. They have chosen to operate within the political world we currently inhabit, not the world we wish we had.

Fair enough. To be sure, those proposals are more grounded than the abolition of state government. I get that. Throughout my own career, I have followed a similar path, unwilling to squander my finite time writing books or articles that advocate policies wildly beyond reach.

Until now. I fear we no longer have that luxury, for the illness has metastasized through our entire body politic. Think of this book as a mere theoretical exercise if you wish. Or, less charitably if you prefer, dismiss it as the mad ravings of an out of touch academic boomer. It doesn't matter. The perils to our democracy are now severe enough that radical surgery, however politically implausible in the near future, demands serious scholarly consideration.

But put aside states' relentless attack on our democracy. State government is also a source of fiscal waste. We don't need three levels of government – national, state, and local – all regulating us and all taxing us. The exhaustive research for this book could not unearth a single function that state governments typically perform – whether in the service realm or the representation realm – that they can do better than all other levels of government. In some subject areas the national government will be equally well or even better equipped; in others, the tasks could be performed at least as well

Several writers have more specifically criticized the multiple counter-majoritarian features that are built into the US Constitution: Robert A. Dahl, How Democratic Is the American Constitution? (2nd ed. 2003); Alexander Keyssar, The Right to Vote: The Contested History of Democracy in the United States (rev. ed. 2009); Sanford Levinson, Our Undemocratic Constitution: Where the Constitution Goes Wrong (And How We the People Can Correct It) (2006); and Levitsky & Ziblatt, Tyranny, above.

[10] For example, Donald F. Kettl, The Divided States of America: Why Federalism Doesn't Work, chapter 11 (2020) (criticizing federalism but ultimately recommending specific reforms that retain the role of states); David Pepper, Laboratories of Autocracy: A Wake-Up Call from behind the Lines (2021); Rubin & Feeley, note 4, at 908 ("We are not arguing for the abolition of the states."). By way of exception, I have found two op-ed pieces that explicitly advocate the abolition of US states. They emphasize the inefficiency of three layers of government and the increased homogeneity of life in the United States, though not the adverse impact of states on American democracy. Lawrence R. Samuel, Washington Post, *States Are a Relic of the Past. It's Time to Get Rid of Them* (Nov. 15, 2016), www.washingtonpost.com/news/in-theory/wp/2016/11/15/states-are-a-relic-of-the-past-its-time-to-get-rid-of-them/; Daniel Greenwood, New York Newsday, *Why the States?* (Jan. 3, 1991), https://sites.hofstra.edu/daniel-greenwood/why-the-states/. In addition, one author has advocated the abolition of the Australian states. See Rodney Hall, Abolish the States – Australia's Future and a $30 Billion Answer to Our Tax Problem (1998). His proposal, focused on the waste and inefficiency of maintaining three levels of government, is discussed in Chapter 4.

by local governments, or national-local partnerships, or regional collaborations of local authorities. All of those scenarios avoid or substantially reduce the costs to the taxpayer of funding the duplicative legislative, bureaucratic, and judicial machinery, and the dizzying array of needlessly divergent laws, of fifty separate states.

Thus, the argument continues, we Americans are paying a hefty price – democratic and fiscal – for state government. What, exactly, are we getting in return? Does state government, for example, help avoid dangerous concentrations of power? Does it enable laws and policies more closely tailored to the needs and preferences of the fifty states' varying populations? Do policy differences among states empower individuals by giving every state's citizens the choice of moving to states with more agreeable laws? Does a system of fifty state governments stimulate economically beneficial competition for businesses? Are the states useful laboratories for social innovation? By being closer to the people than the national government is, do they foster citizen participation in our democracy? Does a state's muscle give its citizens a more effective voice in the formulation of national policy? Do state constitutions protect valuable individual rights that the US Constitution doesn't? Does state government furnish a sense of either personal or political community? Are the states essential partners in the implementation of federal laws?

Most of these benefits have long been asserted by others, in the somewhat different debates over the proper scope of federalism. Despite their initial appeal, Chapter 5 will show that some of these claimed benefits are nonexistent or greatly exaggerated, and that the others are real and important but replicable at least as well by the national government, local governments, or inter-government partnerships.

Before we go any further, and as Richard Nixon used to say, "Let me make one thing perfectly clear." *I am not proposing a wholesale transfer of power from the states to the national government*.[11] Rather, without state government, I propose reassigning *some* of the current state functions to the national government and the rest to the local governments – the cities, towns, and other political subdivisions that are geographically closer, and in most cases ideologically more closely attuned, to the people they represent.[12]

That said, I am also not proposing that the tens of thousands of local governments become ministates. That arrangement would still be a federation, one even more unwieldy than what we have now. I am urging that the US, like many of the world's other democracies, become a true unitary State. The national government

[11] I am sensitive to the many failings of the federal government, thoroughly analyzed by Peter Schuck in Why Government Fails So Often: And How It Can Do Better (2014).

[12] Chapter 4 proposes criteria and procedures for determining which of the functions currently performed by states would be reassigned to the national government and which ones to the local governments. Local governments, in turn, come in many shapes and sizes. They include not only municipalities, but also counties, townships, parishes, unincorporated areas, and special purpose entities such as school districts and sewer districts. Chapter 6, Section A therefore explores the processes that could be used to distribute the local functions among these various kinds of local governments.

would no longer be limited to a list of specific powers affirmatively referenced in the Constitution. It would still be constrained by everything else in the Constitution, including, most importantly, the provisions that protect individual rights. Each of the national government's three branches would remain further cabined by constitutionally enshrined separation of powers principles. And the political process – freed from its many state-related counter-majoritarian distortions – would remain the ultimate check.

Judged by world standards, that thesis is not as extreme as it might sound. The last several decades have seen a trend toward centralization in many other democracies and in the growth of supranational organizations as well. This trend is often ascribed to technological advances. One writer, Barry Friedman, emphasizes, in particular, the revolutions in transportation, communication, and industrialization – I would add homogenization – as forces that have expanded the scope of centralized regulation.[13] I agree and would suggest that these factors have not only explanatory value but normative value as well. They are simply another way of saying that as society's needs become more uniform, and as transportation and communication technologies have made geographic location within the country both less permanent and less important, it simply makes sense to adapt our governance structure accordingly.

A few disclaimers are required. First, defenders of state government will raise historical (among other) objections. They will assert the conventional wisdom[14] that the thirteen original colonies became sovereign states that in turn voluntarily created the federal government, not vice versa (though Congress indisputably created the other thirty-seven states). Moreover, I appreciate that many proponents of states' rights would find the notion of abolishing state government repugnant even if, as suggested here, it is substantially achieved by expanding the powers of local governments. Were the abolition of state government a live issue today, there would be impassioned popular opposition.

No matter. This book is not about whether the abolition of state government would be popular or whether it would be politically achievable in the near future or whether it would be in keeping with the model the founding fathers carefully constructed more than 200 years ago. I assume it would be none of those things. Rather,

[13] Barry Friedman, *Valuing Federalism*, 82 Minn. L. Rev. 317, 365–68 (1997). I push back, however, against Friedman's concession that "[i]ntuition certainly suggests that governance at the state and local level will have its benefits." *Ibid.*, at 380. Intuition, I would submit, suggests only that governance at *some* subnational level has benefits, not that that governance has to be by a combination of state and local authorities. This book argues that local jurisdictions and collaborative partnerships with either other local entities or the national government would be a beneficial substitute for the current fifty-state setup.

[14] Craig Green, in *The United/States: A Revolutionary History of American Statehood*, 119 Mich. L. Rev. 1 (2020), challenges that conventional wisdom. He points out that many scholars believe the Union came first and that only later did the former colonies attain statehood. Green himself rejects both theories, arguing that statehood for the original thirteen colonies and the birth of the union were accomplished simultaneously.

I am concerned here with only one question: In modern-day America, would we be better off without state government?

Additionally, I don't claim that every barrier to US democracy can be blamed on state government. With or without state government, our single-member district system for electing the US House of Representatives guarantees that the party that came in second in the national popular vote will frequently gain control of the House nonetheless.[15] With or without states, the US Senate could still cynically block the confirmation of Supreme Court and lower national court judges whenever that chamber is controlled by other than the president's party. Today's (relatively) internally cohesive and externally polarized political parties could still weaken the constraints imposed by traditional separation of powers principles.[16] The racial, social, and economic inequalities in wages, education, health care, infrastructure, and the environment obstruct equal practical access to, and equal benefit from, democratic institutions.[17] The excessive role of money – particularly dark money – in political campaigns means that not all Americans will have equal say.[18] Deep pocketed special interests and well-paid lobbyists will continue to influence legislative outcomes.[19] Human nature being what it is, there will always be unprincipled

[15] See the discussion in Chapter 3, Section A.

[16] See Daryl J. Levinson & Richard H. Pildes, *Separation of Parties, Not Powers*, 119 Harv. L. Rev. 2311 (2006), and the discussion in Chapter 5, Section A.

[17] For example, Kettl, note 10; Jamila Michener, Fragmented Democracy: Medicaid, Federalism, and Unequal Politics 13–14 (2018); Page & Gilens, note 9; Sitaraman, note 9; Jessica Bulman-Pozen & Miriam Seifter, *The Democracy Principle in State Constitutions*, 119 Mich. L. Rev. 859, 860 n.2 (2021).

[18] Grotesque sums of money are now spent on campaigns for both federal and state elective offices. See, for example, Federal Election Commission, *Statistical Summary of 24-Month Campaign Activity of the 2019–2020 Election Cycle* (Apr. 2, 2021), www.fec.gov/updates/statistical-summary-24-month-campaign-activity-2019-2020-election-cycle/; Page & Gilens, note 9. The contributions come disproportionately from a small number of extremely well-heeled individuals and corporations. See, for example, NPR (Nov. 10, 2022), www.npr.org/2022/11/10/1135718986/candidates-and-political-action-committees-spent-nearly-17-billion-on-midterms. The Supreme Court has largely blocked legislation that would have placed reasonable limits on campaign spending and required greater transparency as to the donors, thereby further easing the way for super-PACs and other organizations to gain preferential access to, and control of, political parties. See *Citizens United* v. *Federal Election Commission*, 558 U.S. 310 (2010); *Buckley* v. *Valeo*, 424 U.S. 1 (1976); Heather K. Gerken & Boden Lecture, *Boden Lecture: The Real Problem with Citizens United: Campaign Finance, Dark Money, and Shadow Parties*, 97 Marq. L. Rev. 904 (2014).

[19] Lobbying is protected by the First Amendment right "to petition the Government for a redress of grievances" and is an important element of participatory democracy. But "the vast majority of money spent on these activities comes from wealthy citizens and business interest groups. Moreover, and not surprisingly, studies find that businesses with the most to gain from favorable public policy engage in the most political activity. Worse, research indicates that campaign contributions and lobbying often help shape policy outcomes." John Craig & David Madland, *How Campaign Contributions and Lobbying Can Lead to Inefficient Economic Policy* (May 2, 2014), www.americanprogress.org/article/how-campaign-contributions-and-lobbying-can-lead-to-inefficient-economic-policy/. It is also big business. Daniel Weiser, while writing in defense of lobbying, acknowledges that "[i]n 2019 alone, lobbyists spent $3.47 billion on influencing political policy." Daniel Weiser, *Why Lobbying Is Legal and Important in the U.S.* (July 12, 2021), www.investopedia.com/articles/investing/043015/

presidents and members of Congress. And as we saw in the aftermath of the 2020 elections, there is the continuing danger of mob violence by supporters of the losing candidates, fanned by false claims of election fraud. Those factors will be acknowledged and discussed. But state government, it will be seen, remains the sine qua non of many of the most serious fissures in the foundations of American democracy.

I also accept that democracy does not require pure majoritarianism. Chapter 2 considers both the importance of majority rule and the concessions that must be made to assure that minority voices are also heard and meaningfully considered. For now, it is enough to acknowledge that, whether one's greater fear is tyranny of the majority or tyranny of the minority, the entrenched US Constitution commendably keeps certain rights and certain institutions beyond the reach of a simple majority. But it does not do this out of a belief that the will of the minority inherently deserves precedence over that of the majority. Rather, the particular rights and institutions that the Constitution deliberately insulates from a simple majority include those deemed essential to protecting popular sovereignty, political equality, other fundamental rights, or foundational structures of government.[20] Regrettably, however, as noted above, the Constitution also protects other institutions and processes that are anathema to these same values. Similarly antithetical to fundamental democratic norms are the various state actions catalogued above.

Finally, apart from the official, representational, and service functions that states perform, states hold sentimental value for many of their citizens. Those intangible ties must be conceded. Whether they are weighty enough to override the huge negative impact of states on both democracy and efficiency seems questionable enough. But even if they are, it seems more doubtful still that those affinities typically reflect a love of the state's *government*. If Alaskans were asked what they liked most about their state, I will go out on a limb here and guess that "the politicians in Juneau" would not make their top-ten list. Far more likely, one would assume, these attachments reflect affection for one's neighbors, a sense of community, perceptions of shared moral, cultural, or political values, or pride in the history, physical grandeur, or achievements of one's home state.

I would never disparage those attachments; they are quite real. The book therefore distinguishes between states and their governments, taking aim only at the latter.

why-lobbying-legal-and-important-us.asp. The Organisation for Economic Co-operation and Development (OECD) puts it best: "Although lobbying can be a positive force in democracy, it can also be a mechanism for powerful groups to influence laws and regulations at the expense of the public interest. This may result in undue influence, unfair competition and policy capture, to the detriment of effective policy making." OECD, *Lobbying*, www.oecd.org/corruption/ethics/lobbying/.

[20] On this subject, see the thoughtful treatment by Levitsky & Ziblatt, Tyranny, note 9, at 137–43. I refer here to the Constitution as it stands today. The original Constitution contained several countermajoritarian provisions that cannot be explained as fostering popular sovereignty, political equality, or other fundamental rights. See, for example, U.S. Const. Art. I, § 2, Cl. 3 (counting only 3/5 of the slaves for purposes of state representation in the US House); Art. I, § 9, Cl.1 (permitting states to import slaves until 1808).

States themselves could continue to exist as geographic territories, with their current boundaries. They could remain on maps. Road signs that say "entering Ohio" could stay in place. The Arizona Diamondbacks and the Minnesota Twins could keep their names. Texans could still brag about how big their state is. States, in other words, could be preserved as geographic areas and as sources of identity, affiliation, and pride, even without the trappings of sovereignty, governments, and official legal recognition. Examples of such geographic areas abound: the American West,[21] the Deep South,[22] New Zealand's North and South Islands,[23] Chile's and Argentina's Patagonia,[24] and North and South Wales,[25] to name just a few.

It is time to expose state government as the single most formidable barrier to true democratic rule in the United States. And, more broadly, it is time to reevaluate whether our three-tier federal system really serves US interests better than a two-tier unitary system would. That dual mission plays out in the pages that follow.

[21] The American West is not a state or any other kind of political subdivision, but it has its own history and it has been popularized by books, television, film, and other forms of mass communication as a distinct geographic region. See, for example, Robert V. Hine *et al.*, The American West (2017) (recounting the distinctive history of the American West).

[22] Although different people might have different views of its precise boundaries, the Deep South has traditionally been understood to encompass the states "that were most dependent on plantation-agriculture" before the American Civil War, namely South Carolina, Georgia, Alabama, Mississippi, and Louisiana. Some would add Florida and Texas to this group. See, for example, New World Encyclopedia, *Deep South*, www.newworldencyclopedia.org/entry/Deep_South. The absence of official legal recognition has not prevented the *Deep South* from developing a distinctive culture and, for many of its residents, a sense of common identity. See, for example, Know Southern History, Southern Culture, www.knowsouthernhistory.net/Culture/.

[23] South Island is a specifically delineated land area of New Zealand. Travelers and residents alike admire its extraordinary beauty. See, for example, New Zealand, South Island, www.newzealand.com/us/south-island/. But it is not a political subdivision of any kind. Rather, within its space there exist several local authorities with jurisdiction over transport, the environment, sewage, and other local matters – precisely the structure advocated in this book. See Wikipedia, *South Island*, https://en.wikipedia.org/wiki/South_Island.

[24] Patagonia has no legal or official status. It is simply the geographic region, within Chile and Argentina, that lies at the southern tip of the South American continent. See Wikipedia, *Patagonia*, https://en.wikipedia.org/wiki/Patagonia.

[25] North and South Wales are familiar geographic regions of Wales. Their residents clearly identify with their respective regions, referring to themselves as "Gogs" and "Hwntws," the Welsh words for north and south, respectively. The populations of the two regions have different urban/rural balances and different speaking accents. But neither is its own political subdivision. Each region, in turn, is home to multiple counties and other local authorities. See Wikipedia, *Geography of Wales*, https://en.wikipedia.org/wiki/North_Wales; Wikipedia, https://en.wikipedia.org/wiki/South_Wales; https://en.wikipedia.org/wiki/Geography_of_Wales.