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appeals does not necessarily signal electoral triumph; Gerald Ford's ability to create surges in support after a broadcast did not extend to the 1976 election. "Presidents," Ragsdale concludes, "cannot talk their way out of short-term and long-term political problems facing the nation."

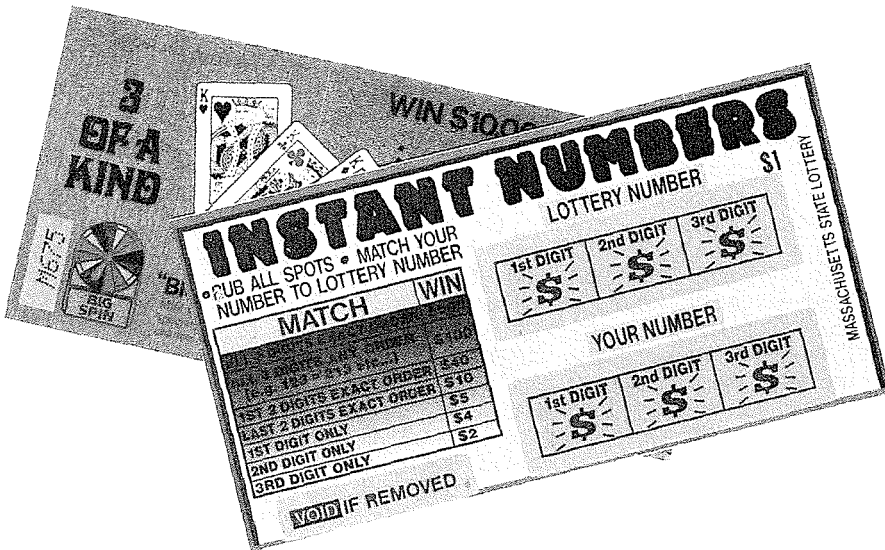
State of the States

"The New Federalism: Unplanned, Innovative, and Here to Stay" by John Herbers, in *Govern-ing* (Oct. 1987), 1414 22nd St. N.W., Wash-ington, D.C. 20037.

One of the goals of the Reagan administration has been establishing "the new federalism"—transferring control of many federal programs to the states. Herbers, a visiting professor of politics at Princeton, argues that although some proposed federal cutbacks have been blocked, the consequences of reducing federal spending and regulation have been "more far-reaching than almost anyone envisioned."

Many programs designed to transfer income from the federal government to the states have either been eliminated or sharply reduced. General revenue sharing, which distributed over \$4 billion annually to cities and states, was eliminated in 1986. Federal job-training programs were reduced from \$9 billion in Fiscal Year 1980 to \$4 billion in Fiscal Year 1985.

State legislatures have responded to federal cutbacks by raising taxes and budgets. The Census Bureau reports that state tax collections (not including lotteries) increased by 33 percent (to \$228 billion) between 1983 and 1986. According to the Advisory Commission on Intergovernmental Relations (ACIR), state budgets have increased by 26 percent (to \$332 billion) during the same period.



Lotteries have proven a potent source of revenue for cash-strapped states. In Fiscal Year 1986, state lotteries raised \$5 billion.

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“Devolution”—the intentional shifting of power and responsibility from the federal level to the states, cities, and counties, has resulted in “renewal and invigoration” in state and local governments. Ideological and partisan divisions in cities and states are in “sharp decline,” as both Republicans and Democrats agree that increased spending in some programs (such as prenatal care) saves tax dollars in the long run. State governments are also making their staffs more efficient; many states, for example, have restructured unemployment offices to help people on welfare find jobs.

States and cities have also found innovative ways to bypass Washington. Localities are making their own deals with foreign governments in order to attract investment and promote their products. Des Moines, Iowa, for example, is establishing a 1,000-acre farm in China as a showcase for local food exporters. States are also expanding regulation into areas untouched by Washington. Wisconsin requires automatic deductions of child-support payments from the wages of fathers who desert their children on welfare, thus becoming a state that goes “far beyond federal requirements in holding parents responsible for their children until age 18.”

Herbers does not expect further cutbacks in federal aid to states and cities. He predicts that rather than dictating local policy, Washington will continue to “build its programs around the innovations of the states.”

Judging

“What Am I? A Potted Plant?” by Richard A. Posner, in *The New Republic* (Sept. 28, 1987), 1220 19th St. N.W., Washington, D.C. 20036.

What should the powers of federal judges be? Some legal scholars (known as “strict constructionists” or “legal formalists”) believe that the primary task of a judge should be to determine the nature and limits of “private rights”—rights which only apply to particular individuals. Judges, these scholars maintain, should administer existing laws, and leave the creation of new laws or rights to the elected branches of government.

Posner, a circuit court judge and senior lecturer at the University of Chicago, argues that “strict constructionism” is politically and legally impossible. State and federal courts, he contends, have been “entrusted with making policy” since the United States began.

Legal formalists, Posner believes, wrongly assume that legislators have perfect knowledge of the consequences of the laws they pass. They fail to take into account that technological and social changes create new legal questions that courts must resolve. For example, the Supreme Court’s 1972 decision that unauthorized wiretaps violate Fourth Amendment prohibitions against unreasonable searches and seizures was a needed “interpretation” of the Constitution, simply because wiretaps did not exist at the time of the Founders.

The Constitution, according to Posner, can be divided into “specific” and “general” clauses. While many of the “specific” clauses “have stood the test of time amazingly well,” others, such as the Second Amendment “right to bear arms,” have become “dangerously anachronistic” and in need of correction.