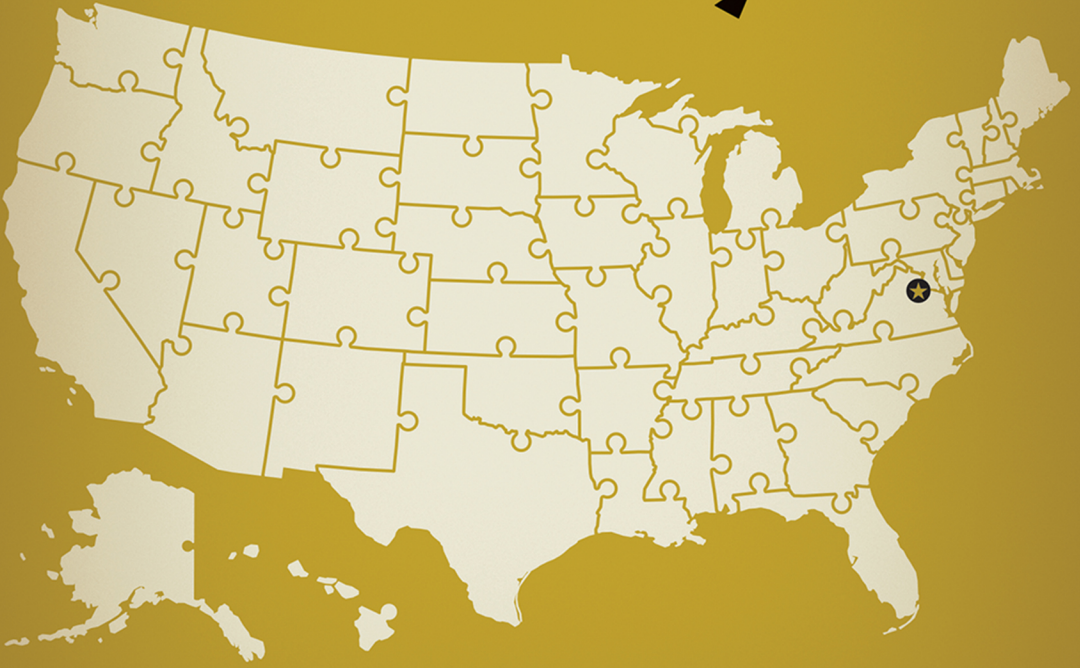


Perspectives on Political and Economic Governance

American Federalism Today



EDITED BY

MICHAEL J. BOSKIN

Governor Mitch Daniels

Introduced by Paul E. Peterson

PAUL E. PETERSON: Governor, it's really great to see you. I know we've talked a lot about education policy over the years, and I've admired your work at Purdue and of course all the work you did on school choice and in Indiana when you were governor. But this is a conference on federalism, and so what I would really like to hear you comment on is where were the biggest challenges you faced when you were governing Indiana and you had to operate within a federal system, you had to worry about local governments out there, but you also had to worry about the federal government where it gave you some opportunities. You can mention them, but also we really want to know what were the problems that you encountered because you were working within the federal system?

GOV. MITCH DANIELS: Well, they were frequent, Paul. I am happy to say, I don't think I can cite an example where we were completely thwarted, but I can give you some "for instances" that I don't think will surprise anyone in the audience. Maybe one of the more important arguments we had with them had to do with a program we devised to provide health insurance to the near-poor. And the argument boiled down to my insistence, I guess I'll say, what we really wanted was a program of more or less HSAs [health savings accounts] for poor people that empowered them. First of all, it required of the beneficiary some very, very modest skin in the game, almost a token amount. But the data told us that even a small contribution into a self-managed account would have beneficial effects. And this was a matter of apparently theological objection at the federal level. They really were very, very resistant to anything that wasn't free.

And we prevailed, but only after a long and difficult struggle. And my successor, when he agreed to expand Medicaid, ran into the very same argument,

and the Obama administration more or less bludgeoned them out of that requirement. But it was, I think, prototypical in their (the federal administration's) hostility to our view of personal autonomy, our empowerment, our trust that people could make wise decisions. And by the way, the data bore that out, that they could make the same intelligent choices about healthcare utilization and shopping medical bargains and so forth as their wealthier neighbors—[this] was borne out, but that didn't prevent a very long and drawn-out argument.

We had in education, Paul, if you remember, a program called Race to the Top. And we were in, I would say, close alignment—me, our very reform-minded superintendent of instruction at the time—pretty close in alignment with Secretary [Arne] Duncan about the objectives. I mean the plan was supposed to be built around teacher quality, which we knew was the most important single variable around assessment, which common sense told you was essential to improved outcomes around doing something very direct about the worst performing schools. And then the fourth, I think they called it a pillar, was aggressive use of data in every case. So we had no general misalignment there. However, the department insisted on what I think they termed buy-in from, guess who—the teachers' unions. And whatever Arne Duncan thought, the teachers' unions weren't nearly so enthusiastic about things like teacher quality since they primarily are there to protect bad teachers.

So we finally walked away from that program and the money that it might've provided, passed—when we had achieved the political position to do so—passed very sweeping reforms that Arne Duncan happened to think were great, most of them. But we had to do it without the federal government. So those are a couple, I could cite others, but those are a couple of the examples we had. We had lots of arguments environmentally. I was thrilled this year by so many court decisions, and the ones that I was most interested in and that bear most directly here, of course, were around the “major questions” decisions. And I was very pleased at the “waters of the US” decision [*Sackett v. EPA*] also because we were frequently obstructed on those fronts. It just adds cost, adds time to what an activist state otherwise intends to do and otherwise would.

PETERSON: Well, Governor, one of the things you mentioned, the teachers' unions, does come up. Republicans always like local government. They want the local government to do as much as possible, but right now teachers' unions have an enormous influence over local government. They're sitting at both

sides of the bargaining table. They play a major role in local elections because nobody else votes in them or very few people vote in them. So, is local government really able to do things given the power that vested interest can exercise in the local arena?

DANIELS: It's uneven, of course. There are plenty of school districts and school boards which have been successful in maintaining quality and standards and some degree of efficiency. One of the reforms that we passed in 2011 narrowed collective bargaining to wages and benefits, essentially. And, at least in our state, so many of the contracts the teachers' unions had extracted went on for scores of pages about decision making. I remember one that offended me particularly was finding clauses that said a principal could not come observe a teacher in a classroom without seven days' notice. Arguably the most important thing a principal could do is to ensure the quality of the teacher in front of those students. So in local government, we at least created the conditions whereby a school administration, school board, can do their duty. One thing I learned was that this is not simply a matter of the unions. People in administrative positions have been socialized to this system. Too many of them came up out of teaching. Sometimes the only way to make more money in a school district is to become the third vice superintendent for buses or something.

PETERSON: We've had a large increase in those administrators. That's a growth sector.

DANIELS: Yeah, it has been. I do think that if you're looking for reasons for optimism, the way in which parents have become concerned about their own rights to raise their own children—the overreach that has led to that, I think, has been a positive thing. You and I have seen, for decades, parent-led reform movements. The problem is parents age out, their kids grow up, but the system doesn't go away, and so there's been a long history of aborted reform efforts.

PETERSON: Well, we've seen dramatic intervention in the local-state system by the federal government with COVID and all the funding of new programs and so forth. So we have a vast amount of money coming into our state and local government system in the last few years. Do you think this is changing the nature of our federal system? Or is this just something that's going to come and go?

DANIELS: Well, federal spending comes and never goes. And that's one of our problems. The day is coming—and I think arithmetically, it's certain—when we're going to have a very, very serious crash, and that—by which I mean an inability to meet our safety net obligations—and that's going to force all kinds of reexaminations. And one can hope that some of that might involve a long overdue transfer or reassignment of authority in various areas to the states. I certainly, for one, hope that's the case. But for the moment, yeah, with the money comes all the strings and demands that we all see in context after context, then states have to try to be resolute about defending their own rights as we did. For instance, in the health insurance example I gave you.

PETERSON: Well, Michael Boskin earlier mentioned all kinds of proposals that have been put out there to clarify the responsibilities between the national, the state, and the local governments. Do you think they need to be clarified? Or are we going to always be sort of stumbling around with a mix such as we've experienced?

DANIELS: Well, I think we've seen that for a long, long time. I mean, I was there when President Reagan talked about a new federalism. Federalism is a matter of convenience, really, on both sides of the aisle. I think I heard some of your previous speakers give examples of this. People like it when it produces a result congenial to them. So no, I think we need that and I actually think there are reasons to hope for that. One, as I say, the federal government's going to run out of fiscal room possibly very suddenly and abruptly. Secondly, in this sadly divided time that we have, you do have Democratic governors, many of whom are proceeding aggressively to advance the interest of their states and will potentially, I think, be allies in this. When governors get together, the subject almost immediately turns to how dysfunctional and inept Washington is, and [it's] maybe one of the few points of political agreement left in our country. And so, one can hope that Democratic governors, who by nature and by nature of the jobs they hold, are almost compelled—not all, but most—are compelled to be practical and realistic and cost-efficient to the extent they can be. And so I'm hoping that both circumstances and the growing contrast between what's done federally and what's done at state levels will eventually produce that possibility. I think I heard it mentioned, but the data has been clear now for well over a decade. People could hardly rate Washington lower than they do, but tend to have a much greater confidence and respect for the job that their states and usually local governments are doing. And this is so

important right now. I've argued many, many places and times that skepticism about big government is healthy and all-American, but you can't let it turn into contempt for all government. And we're bordering on that when we look at the national scene. The one place where I think we still have some confidence in institutions tends to be at the state level.

MICHAEL J. BOSKIN: Dan Rubinfeld raised this issue of special districts, regional cooperation, etc. So we have a bunch of those; here we have the Association of Bay Area Governments, we use them for transportation, water, variety of other things. So I'm just wondering if you have any reflections on the kinds of things that Indiana did in cooperation with its neighboring states.

DANIELS: Well, first of all, I think we ought to take a skeptical look at all these special districts. They typically have been ways to tax people more heavily than the elective process would permit. And so I'm not saying they never have a value, but we discouraged them. I don't remember agreeing to authorize a single one during the eight years that I served in our state. Now, state cooperation is a tough thing, but we had some highly successful examples. I will cite the fact that in the course of a massive infrastructure building program that we had for my years there, we were able to build two long-overdue, long-desired bridges over the Ohio River. They have triggered, by the way, a tremendous economic boom, just as well-chosen infrastructure has the potential to do.

But, it was interesting, it was very complicated to do that, and until we made it simple, I think one of the first rules that I learned the hard way is there's a premium on simplicity, and if you're trying to make something significant happen in the public sector at scale, and the breakthrough there was, after a bunch of arguments between the bureaucrats about, in our case we wanted to toll a bridge as opposed to the old-fashioned gas tax financing. We wanted to build it with a P3 partner [public-private partnership] as opposed to, again, the traditional state-run procurement. And the breakthrough was: I finally said to the Democratic governor of Kentucky, I said, "Look, let's make this easy. These bridges are about the same cost, they're about the same time-frame. You build one and we'll build one." Trying to do this fifty-fifty in joint commissions and we're going to have to create something specialized, I said, How about that? So we did. It turned out to be sort of an interesting clinical trial. Our bridge came in substantially cheaper and got done sooner. But anyway, everybody went home happy. I guess I cite that just to say that when two states try to do things cooperatively, it's not twice as complicated, usually

it's four times or more. And at least on that occasion, we got by in the way I described. Now, I could also cite all sorts of arguments we had, as particularly with Illinois. It's a blessing to be next to Illinois, in many ways. But they did get in the way, or tried to, and they involved the federal government. There was a huge investment we happily were able to finally secure in growing a refinery up on Lake Michigan. But a lot of specious arguments were made by Illinois and they tried to get the EPA, they did get the EPA to help them obstruct that for a while. But if you're stubborn enough, you can usually prevail.

DENNIS EPPLE: Really found your remarks very interesting. I'm a graduate of Purdue. Hail, Purdue! You're uniquely qualified to comment on the state relationship to higher education and in particular public universities. I wanted to ask you your views about the appropriate state role in funding and so forth.

DANIELS: Well, you can read in today's *Wall Street Journal* the travails of my friend Gordon Gee over in West Virginia, and a prediction that this will be more and more common. It probably will. I believe it's been at least exaggerated, if not a canard, that the problems of public higher ed trace to lower state appropriations. I don't find that persuasive at all. And with declining enrollments, this is both for demographic and, frankly, value choice reasons. This is likely to—the pressure—likely to get more severe. As to the federal government, we probably had more difficulty with the federal government's intrusion at a public university than even at the state administration level. We innovated, for instance, income share agreements as an alternative to some of the more expensive debt. Perfectly good and sound idea. The federal government has basically, the Department of Education has through indirection, has at least for the moment, made it impossible for that market to operate, which is a shame.

We moved into adult education, an online education through the acquisition, we converted a proprietary online university into a public one. You would think that the ideologues who worry that someone might be making some money, you'd think they'd be happy about that. But they weren't and continue really to harass what is now Purdue Global and some of those who've tried to follow what we did there. And then there's Title IX, for instance, which makes it both more expensive and very, very difficult to try to bring justice, but fair-minded justice, to both sides of these sometimes difficult and complicated cases of sexual harassment and so forth. So, I probably encountered more of those problems in the most recent job than the previous one.

EPPLE: Sorry to hear about the intervention with your income sharing, which struck me as really just a tremendous innovation.

JOSHUA RAUH: Thanks, Governor. One of the many things you said that was music to my ears was aggressive use of data, and I was hoping that you might just add a couple comments on some other things that Indiana has done with aggressive use of data, some potential opportunities and maybe some potential challenges. In my group, we do a lot of analysis of state-level economic data. And in my observation, there are two challenges. One is often just getting past the maybe some political obstacles to actually get the data produced and released. And another is actually translating the conclusions that arise when the data come out into action. I actually saw recently there was, not to pick on Indiana because I think actually Indiana is a model on this [and] many things, and this stat would be much worse for other states.

But the Indiana Department of Transportation released a report pointing to total ridership of seventeen million and total expenditures of about \$283 million in 2021, which is about \$16.50 per ride. And so one would hope that there'd be somebody who's going to look at that and say, "Let's try to reoptimize here. Is that really a price we want to pay per ride? Or is there a way to . . ." So just interested in your thoughts about getting data released and translating data into action.

DANIELS: Well, "What other way makes sense?" is a commonsense rule violated all over the place in public administration. Thinking about transportation, since you brought it up, I'll always remember in trying to figure out how to address Indiana's infrastructure needs, which were at the time estimated at \$2 billion to \$3 billion, that was real money in 2005. I started with the simplest form of data, piece of data that I knew. I had traveled our toll road many, many times and the last tollbooth before Chicago cost fifteen cents, one-five. Which even then was a challenge. Like who's got a nickel in their pocket? And when I got to the office, I asked somebody: "Fifteen cents," I said. "What does it cost us to collect the toll?" Well, it's government, they don't know. So I said, "Go figure it out." And they came back in two or three weeks and they said, "We think it's about thirty-nine cents."

We were armed with that piece of data and many more we collected. I remember saying at the time, I said, "Well, that's a great business model." I mean, I said, "Look, close this whole—close the tollbooth, fire the ward chairman's nephew or whoever's sitting there. We're twenty-four cents ahead,

and just put out a cigar box. Occasionally a motorist will chuck some in just to be a good citizen.” But then I’m being only partly facetious. When we put that under the microscope, it became very clear there was enormous trapped value in that toll road. And we went out, we were lucky about the timing, the markets were right, and there was great interest.

It remains a paradox that this country, which is so innovative in many ways, lags the world in terms of privatization of infrastructure. But anyway, we hit the jackpot, got paid \$4 billion, cold hard cash, got a better toll road out of it, wound up repaving half the state roads, mileage, rebuilding a third of the state bridges, and we built a host of new projects, like those bridges I mentioned, that had been promised to our citizens for, in some cases, decades. But it all started with an examination of the basic facts that told you that there had to be a better answer there.

I have to just tell you quickly, and it is to a current governor: we all know that in addition to the defense of individual freedom, the other most powerful argument for the federal system is its self-correcting character.

That is to say, when states do things that are stupid, other states take notice. And if states do things that work well, then plagiarism is encouraged. And so I still get phone calls, and I’ve got one to return in a few minutes, from people who are wrestling with these issues, people from both parties. And again, that’s just increasingly valuable and unusual, I think. So I’m just never surprised when Hoover delves into one of the most important subjects around.

But thank you for doing this and for including me. I’ll exit with expressing the fantasy that the series of cases we saw this year that reined in federal authority where it had gotten beyond either its statutory or constitutional bounds . . . permit me to fantasize that someday, before too long, somebody brings a successful Tenth Amendment case. And then we get that restoration and reclarification that was mentioned a minute ago. So sorry for the peroration here, but I’m so happy, excited, to see you dealing with this subject as you are.