

The Vitality of Federalism

One of the sharpest of history's many ironies is the spread of the federal idea throughout the world coincident with its decline in the United States, the country that proved its value for mankind.

Paradoxically, this development overseas has often been actively promoted and assisted by agencies of the central government in Washington, as in the case of the establishment of the German *Bundesrepublik*. While the executive branch was drawing ever more power to itself from the States of the American Union, its officials were simultaneously advising the post-war leaders of West Germany to prevent such concentration.

For at least three reasons the defeated Germans, given freedom to do so, would in any case have adopted a federal constitution. Such a system was a direct repudiation of the extreme centralization practiced by the Nazis. With Prussian overlordship destroyed, it promised restoration of much of the autonomy reluctantly yielded by Bavaria and

the lesser States under the first Reich. And it was the formula best adapted to the hope of eventual reunification of the broken and divided German nation. So the solicitude of the American political advisers was superfluous, yet none the less praiseworthy in view of the way German federation has paid off in dividends for all the so-called Free World.

Of course there is no way to determine accurately how much of the "miracle" of German recovery is attributable to the federal system set up in 1949. The free market maintained by Dr. Ludwig Erhard from the day he became Minister of Economics is rightly given a large measure of the credit. So also is the indefatigable persistence of the German workers, the skill of their scientists and technicians, the ability of industrial management.¹ But in the federal republic these factors received a maximum of encouragement from the political decentralization, as compared with a maximum of discouragement for all but a small proportion of their fellow countrymen under the centralized socialism of the Russian zone. In post-war

¹ Dr. Erhard himself makes the important point that the German genius can be great either for destruction or construction. It was the former when harnessed to monopolistic power. It has been the latter since, in Western Germany, it was wedded to the system of free, competitive enterprise, with the objective of market rather than military victories. As Nazi Germany strengthened Autarky everywhere, so the Federal Republic can strengthen free trade everywhere. Classical economics are important because they reflect the classical concept of liberalism, and therefore of liberty itself. See his Foreword, on "The Spiritual Fundamentals of Healthy Foreign Trade," to *Deutschlands Rueckkehr zum Weltmarkt*, Econ-Verlag GMBH (Duesseldorf 1953). The reasoning is equally applicable to the U.S.A.

Western Germany, as everywhere that climate does not enervate, the less oppressive the control of government, the more energetic the individual activity of the governed.

The Constitution of the German Federal Republic became effective on May 23, 1949. Soon thereafter the government headed by Chancellor Adenauer was firmly established and was admitted to full membership in the Organization of European Economic Cooperation, the European Payments Union, the Coal and Steel Community, and the Council of Europe. All these bureaucratic organizations, in their different ways, were attempts to achieve greater economic and political unification in that part of Europe not under, but clearly threatened by, communist domination.²

This unification movement was from the beginning strongly supported from below, and indeed to a large extent guided, by active unofficial pro-federalism organizations in most of the Western European countries. By March 25, 1957, the federal trend had reached the stage where two very significant diplomatic instruments could be signed in Rome. They were the Common Market and Euratom Treaties, the second of which pools ownership, among the six participating governments, of all fissionable materials that are not diverted to military use.³

The same six governments—of France, Italy, Western

² For a compact summary of these, and subordinate, moves towards European federalism see *Dix ans d'efforts pour unir l'Europe*, Bureau de Liason Franco-Allemand (Paris 1955).

³ The official French texts of these treaties have been utilized: *Textes Diplomatique*, CLXXI and CLXXII respectively, *Le Documentation Française* Nos. 2279 and 2280, Ministry of Foreign Affairs (Paris 1957).

Germany, Netherlands, Belgium and Luxembourg—compose the much more broadly important European Economic Community. This Common Market grouping was really built on the success of the Coal and Steel Community, which by the end of 1953 had gone far to eliminate tariff and trade restrictions among the six in those two basic products. In the origin of this undertaking there was undoubtedly some punitive animus against the Germans. They should be compelled to share their coal and steel with countries the Nazi legions had overrun. But this hang-over of nationalistic resentment evaporated as it came to be realized that the elimination of trade restrictions in these basic commodities was operating in the mutual interest of all concerned.

Consequently, in June, 1955, the foreign ministers of the above-mentioned six national governments, meeting at Messina, decided in principle to merge the economies of their countries, in much the same way as the economies of the States in our own Union are merged. The major decisions taken at this historic, yet contemporaneously little noticed, meeting were to eliminate all tariffs among the six states, to re-establish free convertibility of their respective currencies, to permit the unrestricted movement of labor across their frontiers, to harmonize and coordinate their respective social security systems and to create common investment institutions for economic development. The step was somewhat the less epoch-making because the little Benelux combination—Belgium, Netherlands and Luxembourg—had already achieved some preliminary success along these lines.

The Common Market Treaty, quickly ratified by all six national parliaments, established a somewhat elastic timetable, spotted with escape clauses, for accomplishment of this far-reaching plan. It became nominally effective on January 1, 1958, and a year later a definite start was made, both in the direction of free currency convertibility and of actual tariff consolidation and reduction within the six-country grouping, which Greece is disposed to join.

There can be no assured prediction as to the eventual outcome of this long-range undertaking. In economic matters it is working much more clearly in the direction of a federated Europe than is the case with the political arrangements. The Council of Ministers, which has the executive power for the Common Market, is composed of governmental appointees, four each from France, West Germany and Italy, two each from Belgium and the Netherlands, one from Luxembourg. Any decision, within the terms of the treaty, can be taken by a vote of twelve of these seventeen members, provided that in certain cases the twelve votes must be provided by four of the national delegations. This means that, unlike the Council of the United Nations, no single government can exercise a veto power.

The Common Market Council operates through a full-time commission of nine members, serving renewable terms of four years, during which they may engage in no other professional activity, remunerated or not. All members of this commission must be nationals of the Common Market countries, and no more than two may have the same nationality. Any proposed commission member can

be blackballed by any one of the participating governments, but once installed in office "they shall neither solicit nor accept instruction from any government nor from any organization" other than the Council which they serve (Art. 157). In other words, the civil service of the Common Market is, like the secretariat of the U.N., designed as a professional and non-political body.

The organization also has a Consultative Assembly, though this has been given no more governmental power than the name indicates. Not even this body has any direct connection with the electorate of the Common Market countries. Members of the Assembly, in assigned numbers, are chosen by the six national parliaments from among their own memberships, in proportion to party representation there. Finally, the financing is by annual grants requested in set proportions from these parliaments. Seemingly any country could secede from the Common Market merely by withholding its contributory grant.

At present, therefore, the organization cannot be classified as a federation, but rather as a limited league of nations, designed to promote the economic integration of its membership. Nevertheless, "Little Europe," as this six-nation grouping is often called, bears a close and suggestive structural resemblance to the Confederation of American States, during the period between the Revolution and adoption of the Constitution of 1787.

On the one hand, common economic interest, especially the virtual necessity of unimpeded transport, communication and power transmission, is working constantly to bind the Common Market countries into "a more perfect

Union." On the other hand, political factors tend to retard this development. Even before the Rome treaties were signed, the British Government had found "substantial reasons why the United Kingdom could not become a member of such a Union," arising "in particular from the United Kingdom's interests and responsibilities in the Commonwealth." The Conservative Government therefore, in 1957, suggested an alternative "Grand Design" providing for a larger free trade area in Western Europe, though one which in the interest of the Commonwealth would exclude agricultural production, and for a vaguely adumbrated European Parliament, with which the United States and Canada might, if they so choose, be associated.⁴ The nebulous political part of this "plan" gave temporary encouragement to the advocates of "Union Now" among the North Atlantic "democracies." But the "Grand Design" wilted under opposition from the Council of Europe. And the much more explicit free trade area proposal did not deter the restricted Common Market movement from forging ahead along its own limited lines.

Problems which are intrinsically French and German are calculated to prove more of a handicap than British opposition to the development of real federation in "Little Europe."

The British, though distinctly worried by the potential competitive strength of the Common Market, have concluded that imperial interests preclude their membership

⁴ *A European Free Trade Area*, Her Majesty's Stationery Office (London 1957) Cmnd. 72.

in it. The French decision was exactly opposite. All of the remaining African dependencies of France, including Algeria as an integral though rebellious part of the country, have been brought into the Common Market grouping as part of the larger French "community." While this attempted fusion of a colonial empire with a central European customs union offers obvious economic advantages it is also politically anomalous. What if these French African dependencies, whether predominantly Arab or Negro, should prefer not to be attached to a European grouping? The Common Market will certainly not develop further towards federation if its members, aside from France and Belgium, think that thereby they will incur any responsibility to maintain a colonial system for others. And this mistrust was increased by the accession to quasi-dictatorial power of General de Gaulle, more clearly imbued with nationalistic mystique than with any apparent desire to subordinate French independence to European federation.

Uncertainty as to the future of divided Germany raises another imponderable. While the *Bundesrepublik* under Adenauer has been a leader for European federation, it could be quite otherwise if and when Germany is reunited. This involves agreement with Soviet Russia for which German neutrality is certainly the minimum price. That development would be more of a threat to the predominantly military organization of NATO than to the predominantly economic organization of the Common Market. But it would tend to keep the latter from acquiring any real political unity.

So any evolution of the still embryonic Common Market towards federal structure is doubtful, to say the least. Nevertheless, it is significant that in the continuous consideration given to this step no single authority on unification has been quoted more frequently than the *Federalist* papers. And of those essays the closing passages of No. 11, by Alexander Hamilton, are now better known in Europe than in the United States. Especially apt for the problems of Western Europe, judging by the frequency of its quotation there, is Hamilton's closely reasoned paragraph beginning: "An unrestrained intercourse between the States themselves will advance the trade of each by an interchange of their respective productions, not only for the supply of reciprocal wants at home, but for exportation to foreign markets."

The closing sentence of this memorable essay is also frequently cited in Europe, as apposite—in reverse—to its current problems: "Let the thirteen States, bound together in a strict and indissoluble Union, concur in erecting one great American system, superior to the control of all transatlantic force or influence, and able to dictate the terms of the connection between the old and the new world!"

Only in similar fashion, suggests Professor Bruno Leoni dryly in a study of *The Actuality of Federalism*, can Europe in its turn hope to build a political system "superior to the control of all transatlantic force or influence."⁵

⁵ *Il Politico*, Univ. of Pavia, Vol. XXIII, No. 1, March 1958 (English translation).

Within Europe, progress towards federalism is slowed by deep-rooted nationalistic prejudice, by interests of many kinds vested in the nationalistic traditions, to some extent by the paradoxical effort to prevent the rise of other nationalisms in crumbling overseas empires.

The liquidation of colonialism, on the other hand, has given notable stimulus to a widespread application of federal method to former dependencies. British, much more than American, statesmanship has taken the lead in this. For instance, the independent Republic of the Philippines, proclaimed with the sanction of the United States on July 4, 1946, is unitary and not federal. Members of the Senate are all chosen "at large" and not by the "provinces," which have little or no autonomy. Whenever the word "state" is used in the Philippines' Constitution it means the national government alone. Indeed, this Constitution is worthy of careful examination, as an open proclamation of the system which many Americans would like to see established here. Section 6 of Article XIII will serve as an illustration. It reads:

The State may, in the interest of national welfare and defense, establish and operate industries and means of transportation and communication, and, upon payment of just compensation, transfer to public ownership utilities and other private enterprises to be operated by the government.

By contrast the nearby Federation of Malaya, since August, 1957, a self-governing nation (excluding Singapore) within the British Commonwealth, conforms in

more than mere name to federal definition. The Senate is appointed by the "Paramount Ruler," who is elected by the local Sultans among themselves. But its members are definitely supposed to represent sectional and minority interests. Moreover, all powers not reserved to the central government vest in the Councils of the constituent States.

The Federation of the West Indies is a more recent illustration, within the British Commonwealth, its newly-elected Parliament having been formally opened by Princess Margaret on April 22, 1958. It is composed of ten former crown colonies strung in a loose arc of far-flung tropical islands, including Jamaica and Trinidad at either end. For the present a British Governor-General fills the role which could eventually be that of President, and he appoints the Senate, two from each of the amalgamated crown colonies except Montserrat, which provides only one. In the European parliamentary tradition, the Prime Minister of the West Indies is the choice of the dominant party in the freely elected House of Representatives, from forty-five constituencies in all the federating islands. His power is limited both by the functions reserved for the local control of the ten former colonies and by those (defense, foreign affairs and currency) kept in the hands of the British Governor-General.

The British are generally supposed to have learned the value of the federal formula the hard way—by not having it in time to apply to the continental American colonies when revolution might thereby have been averted. The

Leeward Islands, however, practiced a crude form of federalism as early as the reign of Queen Anne, and it has been suggested that Alexander Hamilton, who was born there, was influenced by this background when he helped to draft the Constitution of the United States.⁶ But there is little or no supporting evidence for this theory in any of Hamilton's voluminous political writings. What is less disputable is the fact that the British have recently found the federal form of government as suitable for racially heterogeneous equatorial territories, on opposite sides of the globe, as they did in the past for "all-white" Australia and Anglo-French Canada.

Many other current illustrations of the vitality of federalism could be cited. The union of Egypt and Syria is widely regarded as only a first step in the building of a federated Arab Republic. The French have loosely federated both their West African and equatorial colonies, as the British have not too successfully attempted in Nigeria and East Africa.⁷ Relations between the new African republics of Ghana (formerly British) and Guinea (formerly

⁶ *British Affairs*, official organ of British Information Services (New York), September 1957.

⁷ Reporting to the President on his circuit of Africa, in March, 1957, Vice-President Nixon said not a word about incipient federalism there. On January 17, 1959, however, Asst. Sec. of State Joseph C. Satterthwaite, addressing the Southern Assembly at Biloxi, Miss., said that "the United States views with favor" the development of "the general concept of federation or regional association in Africa." Dept. of State *Press Release*, Jan. 17, 1959, No. 38. The contrast suggests the rapid growth of the federal idea in Africa during the intervening period.

French) suggest that the idea of federation may spread rapidly among new Negro nations formed out of emancipated European colonies.⁸ Indeed, fear of that development is one reason for the strength of the "apartheid" movement in the Union of South Africa, itself a well-designed federation dating back to the days when the little Dutch republics, Transvaal and Orange Free State, joined forces to resist the British in the so-called Boer War. There is something reminiscent of that Boer coalition in the consultative "Nordic Council" currently maintained by the governments of Denmark, Finland, Norway and Sweden, which some would like to see expanded into a Scandinavian Federation.⁹

These illustrations certainly indicate that the federal form of government is adaptable to the greatest diversity of cultural and climatic conditions. They further show that it is far from "obsolescent," as Professor Harold Laski asserted in 1939 and as less brilliant socialists, English and American, have been affirming since. On the other hand, it must be noted that federalism is constantly threatened by centrifugal as well as centripetal tendencies. The pronounced trend towards centralization of all political authority in Washington is the outstanding illustration of the latter force. Examples of the centrifugal tendency can

⁸ On May 1, 1959, the Prime Minister of Ghana and the president of Guinea signed an agreement pledging themselves "immediately to lay the foundation" of a "Union of Independent African States," designed to possess a common "Union Economic Council" and "Union Bank of Issue."

⁹ Cf. *Scandinavia on the World Stage*, *The Economist* (London) Nov. 9, 1957, pp. 473-4.

be found in dissolution of the former dynastic unions of Norway and Sweden; of Holland and Belgium; of Austria and Hungary.

Another illustration is found in the splintering into five separate republics of the Central American Federation formed when these Spanish provinces jointly obtained their independence in 1821. These five (Costa Rica, Guatemala, Honduras, Nicaragua, El Salvador) are nevertheless showing a definite tendency towards reunification, currently in the establishment of a customs union.

It is often asserted that federalism is only a political way-station on the road to the strongly integrated nation-state. The argument here is that the division of sovereignty which is the essence of federalism is reasonable during a period of national probation, so to speak, but cannot be tolerated in a "Great Power." Countries which have achieved that allegedly desirable status must, it is said, have strongly unitary governments able to act vigorously and promptly in their foreign relations and empowered to standardize domestic practices in the interest of efficiency, economy and public welfare. The reasons for the growth of that seductive yet specious reasoning, together with many of its flaws, have been examined in the course of this study. Here it is sufficient to point to the inevitable end of this mode of thinking.

If Great Power status is actually the final goal of political evolution it follows logically that one nation should eventually rise triumphant over all its rivals. This has been the objective, never attained and probably never attain-

able, of all the conquerors of recorded history. It is widely believed to be the aim of the Russian leadership today, though some uncertainty creeps in from evidence that communist China might in the future be quite as interested in world domination as is Soviet Russia.

All American energies are therefore being increasingly concentrated by centralized government, at the expense of the American tradition, to block the supposed objectives of the communist leadership. Yet in this literally suicidal effort the ultimate weapon of all-out war is denied us. For if there is one certainty about an atomic war it is that the result would be the complete destruction of major aspects of freedom in the United States. Win, lose or draw—in the military sense—the simple, dictatorial methods of communism, whether directed by Americans, Russians or Chinese, would displace the free market from the moment the first atomic bomb was dropped.

Since this is realized by all thinking people, and furthermore since we ourselves deny any disposition to run the world from Washington, it would seem logical to give far more positive and continuous support to the principles of federalism, both at home and abroad. The case for such policy is strengthened by the evidence that mankind is in any case groping towards the adoption and development of a political formula which was first thoroughly thought out by American statesmanship and which has certainly proved beneficial to all who have employed it.

Among the men who planned the federal system the most practical and prosaic, the least inclined to indulge in

rhapsody of any kind, was undoubtedly James Madison. Yet even Madison, when the fate of the newly drafted Constitution hung in the balance, could not refrain from that rare type of emotional appeal, firmly based upon the most careful observation and reasoning, which characterized the Hebrew prophets of old. "Hearken not," he advised, "to the voice which petulantly tells you that the form of government recommended for your adoption is a novelty in the political world; that it has never yet had a place in the theories of the wildest projectors; that it rashly attempts what it is impossible to accomplish. No, my countrymen, shut your ears against this unhallowed language."¹⁰

They did so. And it may be hoped that Americans of today will with equal conviction shut their ears to the even more unhallowed language of those who maintain that in less than two centuries the Federal Republic has necessarily run its course. This suggests that the end of the road for the United States is just one more tombstone of the type that tells the lifespan of the countless centralized despotisms of the past. Yet, all too clearly, that could be the outcome.

In this same *Federalist* essay Madison answers the doubts of those who say that while federalism may be a suitable system for a small and compact country, like Switzerland, it will not serve larger areas as well as strongly centralized government. On the contrary, he says,

¹⁰ *The Federalist*, No. 14.

for so long as the jurisdiction of the central government "is limited to certain enumerated objects" the natural limit of a federal republic "is that distance from the center which will barely allow the representatives to meet as often as may be necessary for the administration of public affairs. Can it be said that the limits of the United States exceed this distance?"

The question was merely rhetorical, when posed by Madison in 1787, and is far more so today. With the development of air transport there is indeed no longer any "natural limit" to a federation. Nor is the interposition of the ocean, or of territory under another sovereignty, any longer an obstacle, as shown by the entry of Hawaii and Alaska into the American Union, and by the wide separation of Jamaica from its sister States in the Federation of the West Indies.

Those who plead for "world federalism" may therefore be far more politically realistic, much more closely attuned to the realities of our age, than many who regard them as the "wild projectors" that Franklin, Hamilton, Madison, Washington and their colleagues were once deemed to be. Certain it is that two world organizations, composed primarily of unitary states with concentrated sovereignty, have both bogged down since World War I. With the extreme polarization of power, as now between U.S.A. and U.S.S.R., the problem of world stabilization has become insoluble through further concentration of governmental strengths. Nationalism is clearly anachronistic when it is shot through the earth's atmosphere to compete in outer space.

Unlimited concentration of governmental power encourages both internal and external tension. The increase in both has been clearly apparent as our own country has moved towards empire from its federal basis. By its division and separation of powers, federation tends to relieve both types of tensions. There is nothing accidental in the fact that wars between federations are most unusual, nor in the fact that where federalism is really practiced, changes of government by free election are both frequent and orderly.

So the resurgent vitality of federalism, weakened though the doctrine is in its American birthplace, is encouraging to all who look for something better than "cold war" ad infinitum. For through the gradual formation of perhaps a dozen great federations, of which the United States and Russia would certainly be two, those polarized enemies would be disengaged, a balance of power would be re-established, the backward nations might look forward to some such blossoming as came to our own backward States when they federated, and above all a better basis of less recriminatory international cooperation might well be laid.

The present government of Russia, of course, is not in reality federal. And that of the United States is ceasing to be worthy of the definition. But there are many signs that Americans are unhappy about the loss of the distinctive national form. And other signs are not lacking that Russia, if peace were stabilized, might develop towards federalism, with less concentration of power in Moscow and consequently more freedom in the constituent units.

One point is not speculative. The world, as a result of the breakdown of the European system of nation-states, has been thrown into a political melting pot at least as liquefying as was the French Revolution. So much has been shattered that no reformation in the old mold is conceivable. The changes that have taken place since 1945 are undoubtedly only a portent of those still to come, even on the assumption that there will not be atomic war.

In such a period, regardless of the course of others, it is of the first importance for Americans to hold fast to those tested principles of government which have served them so well; to give far more consideration to the assets of federalism than is now generally rendered—even to realize, for reasons now to be noted, that once again, in Alexander Hamilton's words, "It belongs to us to vindicate the honor of the human race."¹¹

¹¹ *Idem.*, No. 11.