
Introduction to Liberty Press Edition (1981)

The book that follows was written by me early in 1959 and was first published by Henry Regnery, in Chicago, in July of that year. No textual changes have been made but in sponsoring this new edition Liberty Press, of Indianapolis, has suggested an updated Introduction. Clearly, this new Introduction should consider why there is growing political discontent in a country that has been a largely successful Federal Republic.

The purpose of the book also remains the same as when it was written. I thought then, and continue to think, that far too little consideration is given to the relationship between the widely desired condition of human freedom and the political system ordained for the United States by its original Constitution—still substantially in force despite much modification over the course of two centuries.

It is not suggested that a federal system is necessary to promote freedom. People in countries where sovereignty is not divided can be as free as those where major political

control is reserved for constituent parts, whether these be called States, Provinces or Cantons. But under a functioning federation there cannot be effective triumph for what Rousseau called "The General Will," often exercised by dictatorships, always claiming authority to decide the extent to which individual freedom of choice may be permitted.

This book was written during the second term of the Eisenhower Administration. That was a period of relative political calm, encouraging consideration of the adjective "federal" in its rigid dictionary meaning: "Of or pertaining to, or of the nature of, that form of government in which two or more states constitute a political unity while remaining independent as to their internal affairs." In keeping with this definition, our early political writers always referred to the government in Washington as "general" or "central" or sometimes "national" in order to distinguish its functions from those of the States as independent units.

There could then be no talk of federal Poor Relief, or a federal Department of Education, since control over such responsibilities was clearly reserved to the States by the Constitution. The Chief Executive was elected as President of the United States, not of the American *people*. So he could not with propriety be sarcastic about States' rights, nor authoritatively define what he might be pleased to call "human rights" in this country, let alone in others. Whenever permitted to choose, between controlling their own government or extending its powers overseas, Amer-

icans have shown disposition for the former. That tendency has been more pronounced since the disaster of Vietnam.

Unfortunately, though not unnaturally, opposition to slavery and the consequent Civil War brought inexact use of our political terminology. The Union troops became known as "Federals," to distinguish them from the seceding "Confederates." Soon whatever the Union government commanded became a "federal" undertaking, even though it might be wholly alien to the system of separated powers. The Civil War Amendments seemed to justify this loose vernacular usage so that today differentiation between what is strictly federal and what is definitely anti-federal is often blurred in the public mind.

A variant of this confusion is found in the newspaper practice of referring to an administrative opinion as a "U.S. Decision" when it may be no more than the hope of an anonymous Presidential appointee. Trouble is saved for the headline writer if he may define such personal viewpoint as the judgment of the nation as a whole. "U.S." compresses much in very brief compass. But such contraction does not diminish misunderstanding as to the kind of government we have inherited.

A decent respect for the Constitution, however, must not blind our eyes to deficiencies in its nature which are becoming increasingly troublesome. Most serious of these is the incorporation of two sets of functions—those of Chief of State and those of Chief of Government—in a single person: The President of the United States. That

merger is difficult at best and becomes more so when the President's role as Chief of Government is enlarged, which is generally the case when the principles of federalism are undermined.

Chief of State, among most of our Allies, has become a non-partisan and largely ceremonial office, brought to perfection by the now politically impartial British monarchy. The Crown represents the underlying unity of the nation, especially in its dealings with other sovereignties. In sharp distinction, Chief of Government is a primarily political and generally provisional office, subject to change by popular election. In seeking to merge these characteristics, especially at "Summit" conferences, the President of the United States finds himself in an anomalous situation. He must seek to convince the world that he speaks with lasting authority though everyone knows it is only temporary. Thus arises the "credibility gap" that became apparent to all when President Wilson's support of the Treaty of Versailles was repudiated by the Senate. The difficulty can become disastrous if a President shows himself both active and inept in his direction of foreign policy.

The authors of the Constitution foresaw this problem but thought it would be avoided by what came to be called "isolationism," meaning especially abstention from "entangling alliances" and strict neutrality in the disputes of other nations. In the case of a Federal Republic this was a wholly reasonable attitude. The President did not need to concern himself continuously with domestic welfare,

since responsibility for many issues was left in the hands of the localities. Yet, as Chief of State, he could speak with the more authority in that field of foreign affairs for which he had clear Constitutional power as Chief of Government. This required a neat balancing act, but both Woodrow Wilson and Franklin D. Roosevelt sustained it successfully during the early stages of two encompassing European wars.

In addition to the two quite separate functions of the Presidency, we must blame the Founding Fathers for the assumption that this official could direct the newly united colonies without provocative political division. This illusion could be maintained only if very significant powers were left to the States and, even so, only under the direction of a "father figure" like George Washington. He had been made fully conscious of the often bitter acrimony aroused among Americans by the call to revolution. In all the colonies there were many more United Empire Loyalists, "true to the old flag," than advocates of independence cared to admit. Recrimination between these factions made it seem imperative to develop political unanimity in the newly-fledged nation.

So we have Washington's "solemn warning," in his famous Farewell Address, "against the baneful effects of the Spirit of Party." Even more striking, in the original Constitution, was the arrangement whereby the President and Vice-President were deliberately chosen as political opponents who would necessarily have to compromise their viewpoints. The President was to be the candidate

with the highest number of electoral votes and the Vice-President the runner-up, meaning the winner's most effective adversary.

As Aristotle told us long since: "Man is a political animal." Therefore, our early efforts to subdue partisan politics seem today more idealistic than practical. Indeed, they may have proved actually harmful by exaggerating the voting importance of group and ethnic interests at the expense of ideological alignment. On the other hand, this non-partisan emphasis is what made Gladstone refer to our Constitution as "the most wonderful work ever struck off at a given time by the brain and purpose of man." From the beginning, the pressure for compromise has worked helpfully in reconciling widely differing viewpoints. What brought Hamilton and Madison together, in the writing of *The Federalist*, could as easily dissolve the stimulated but largely unrealistic differences that put so-called "Conservatives" and "Liberals" at each other's throats today.

A popular yearning in the direction of clear national purpose has become apparent during the murky election year of 1980 when, prior to the unpredictable choice, this Introduction is written. The timing is as should be, since meaningless division, rather than dubious decision, is what we have most to fear. In spite of the protracted and exhausting nature of candidate selection, both of the major parties came out for greater centralization of power, the Republicans through almost unlimited military spending, the Democrats through continuation of lavish welfare ex-

penditure. A strong emotional case may be made for either but the underlying political fact is that both avenues are equally socialistic and the tendency to compromise means no real economies by an indecisive Congress. The result has been that continuous deficit financing which depreciates the dollar, promotes inflation and thereby ironically weakens national power.

Many Americans are aware of the current political dilemma, are weary of the campaign recriminations that obscure it, and are now either ceasing to vote at all or are registering as "Independents." The profound dissatisfaction of 1980 also expressed itself in the apostasy of a Republican candidate who eloquently cried "a plague on both your houses" and of a "Libertarian" who argued strongly for a revitalized federalism. Unfortunately, our superficial media coverage largely ignored his thesis that the scope and concentration of government is the real issue. And it was not emphasized that improvement at the State level is as essential as control over the expansionism of Washington. The latter has been too much assisted by the indifference, inefficiency and sometimes outright corruption of State governments.

So the effort to differentiate politically, between proponents of Warfare and of Welfare, is unsatisfactory, not less so because of the curious attempt to make the former a "Conservative" and the latter a "Liberal" position. Opposition to what George Washington called "overgrown military establishments" is in fact the traditional American attitude. And to "promote the general Welfare" is coupled

with "provide for the common defense" as primary objectives set forth in the Preamble to the Constitution. But in both cases ends are to be achieved through the agency of *federal* rather than national government. We need not abandon federalism to be either militarily or socially secure.

The underlying issue for Americans is whether we shall continue the controlled central government that was designed, or slip unconsciously into one of the forms of dictatorship encouraged by the profound upheavals of two world wars. It is not merely a domestic problem but one of world-wide scope and has been treated as such in the reprinted study that follows. Because of their widely differing political philosophies, as much as because of their actual and latent power, the U.S.A. and U.S.S.R. have become protagonists in this great drama of our time. But it cannot be satisfactorily terminated, as some seem to think, by nuclear conflict between the two giants. In such a war the primitive system of Communism would probably triumph over the complicated and fragile structure of representative government. Which nation would "win" in damaging the other would be of little moment. The more permanent injury would be political and here a federal system is much the more vulnerable. It is small consolation to think that if we should adopt Communism we would never call it that, but something comforting, like "participatory democracy."

Since this book was written, the political validity of federalism has been under constant test and for its advo-

cates the results are certainly not entirely satisfactory. The formula has failed to take root in Central America, in the Caribbean, among Moslem states and between new nations evolved from colonial Africa. It has been openly repudiated where people have accepted military dictatorships, as in countries so disparate as Brazil, Chile, South Korea, and Turkey. On the other hand, provincial autonomy has been emphasized in Canada even to the point where national unity is threatened. And for most of Western Europe the Common Market, only a project in 1959, has become an embryonic political federation with more promise than can be expected from the military alliance of NATO.

It would serve no useful end to attempt a balance sheet of federal gains and losses during the past 21 years. That both can be cited suggests that this controversial governmental system is still entirely practical, though not easy either to attain or maintain. Increasing social complexities and excessive nationalism have brought strong pressures for centralization of power. Yet it is equally clear, the more so because of the serious upheaval in Poland, that even the most determined dictatorships cannot wholly repress the broadly human desire for self-government.

There are critical points, varying in time and space, beyond which no people can be successfully coerced. There are other critical points where the fundamentals of public order may, unless supported by government, give way to anarchy. At both sets of flash points either revolution or counter-revolution is to be expected. Since the

Civil War, our closely reasoned federal system has proved competent, with judicious management, to avoid the extremes.

It does not follow that this immunity will continue. The fallacious idea that all essential political thinking was done for us by the founding fathers is strong today, perhaps especially in schools and colleges. Actually the dangerously elongated structure of primary and Presidential election is largely extra-Constitutional and may be revised at will. The many reasons for thinking that such reform should accord with the underlying federal structure are set forth, I believe without bias, herewith. It will be helpful if they are read in conjunction with the *Federalist Papers*, which argued almost two centuries ago that the connection between Freedom and Federalism is neither accidental nor capricious.

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