

CHAPTER THREE

The American Model of Federalism

- **Federal and Unitary**
- **The Balance Sheet of Federalism**
- **Distribution of Powers**
- **Federal Obligations to the States**
- **State Obligations to the Union**

Federal and Unitary

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people"

The United States Constitution, Amendment X, 1789

Federal and Unitary

- A federal state divides authority between self-governing parts and the central whole;
- A unitary state concentrates power in a single central government having legal omnipotence over all territory within the state;
- Under the federal arrangement, matters considered of primary importance to the country as a whole are assigned to the **national government**; Functions deemed principally of local interest are given to **provincial governments**;

Federal and Unitary

- The Constitution defines directly and indirectly the structure and responsibilities of the federal government;
- According to the constitution, any power not specifically given to the federal government is a power of the states;

The Balance Sheet of Federalism

ADVANTAGES

FEDERAL CONTROL

- Unifies the nation;
- Safeguards the nation's independence;
- Safeguards the liberties of the people;
- Responds quickly to national emergencies;
- Gives common direction to local governments;
- Etc...

LOCAL CONTROL

- Promotes spirit of self reliance;
- Secures close adaptation to local needs;
- Relieves the national government of congestion of business
- Promotes freedom and democracy;
- Etc...

The Balance Sheet of Federalism

DISADVANTAGES

FEDERAL CONTROL

- Promotes irresponsible national bureaucracy;
- Results in a neglect of local needs;
- Destroys local civil initiative;
- Results in inefficiency and waste;
- Results in the instability of governmental policies;
- Etc...

LOCAL CONTROL

- Results in an uneconomic management of local affairs;
- Fosters local autocratic rule
- Produces regional disunity;
- Results in inequality in the standards of public service;
- Produces inertia and extreme rigidity;
- Lessens national security;
- Etc...

Distribution of Powers

Specific National Powers

- The national government possesses only those powers specifically delegated to it or reasonably inferred from the Constitution;
- The national government today appears to possess powers not exercised in the years following 1789.

Distribution of Powers

Powers of the State

- The state governments possess an indefinite grant of the remaining powers neither given to the Federal government nor prohibited to the states;
- Being residual in nature, the state powers are broader than those of the Federal government;
- States are assumed to have all authority not prohibited in Federal or state constitutions;
- The principal state power, the police power, gives the state sanction to provide for the health, morals, safety and welfare of its people.

Distribution of Powers

Powers Delegated	F	S
To make and enforce laws	X	X
To conduct elections		X
To tax	X	X
To borrow money	X	X
To fix standards of measures	X	
To maintain a navy	X	
To protect health and safety		X
To conduct foreign relations	X	
To establish and maintain courts	X	X

Federal Obligations to the States

The Federal government is bound to:

- o Respect the territorial integrity of the states;
- o Guarantee a republican form of government to the states;
- o Protect states against domestic violence and foreign invasions;
- o Respect the equal representation of the states in the senate (2 senators per state);
- o Guarantee the state immunity from suit by forbidding suits against states by individuals in the Federal courts.

State Obligations to the Union

- Election of federal officials: states are due to conduct elections for the federal officials;
- Participation in the amendment process.

Do you have any Questions?



Next Week

The Declaration of Independence

For Further Reading

A NEW KIND OF FEDERALISM

- The first and most obvious approach *The Federalist Papers* used was a new definition of federalism. Having just won a revolution against an oppressive monarchy, the former American colonists were in no mood to replace it with another centralized, unrestrained regime. On the other hand, their experience with instability and disorganization under the Articles of Confederation, due to jealousy and competition between the individual states, made them receptive to the creation of a stronger national government. A number of *The Federalist Papers* argued that a new kind of balance, never achieved elsewhere, was possible. Indeed, the *Papers* were themselves a balance between the nationalist propensities and attitudes of those who shared the suspicion of distant authority.
- Madison proposed that, instead of the absolute sovereignty of each state under the Articles of Confederation, the states would retain a "residual sovereignty" in all those areas that did not require national concern.
- Hamilton suggested what he called a "concurrency" of powers between the national and state governments. But his analogy placed greater emphasis on a central authority. Hamilton cited examples of alliances in ancient Greece and contemporary Europe that invariably fell apart in times of crisis. To the authors of *The Federalist Papers*, whatever their differences, the lesson was clear: survival as a respected nation required the transfer of important, though limited, powers to the central government. They believed that this could be done without destroying the identity or autonomy of the separate states.

For Further Reading

- The federal entity created by the Constitution is the dominant feature of the American governmental system. But the system itself is in reality a mosaic, composed of thousands of smaller units — building blocks that together make up the whole.
- There are 50 state governments plus the government of the District of Columbia, and further down the ladder are still smaller units that govern counties, cities, towns, and villages.
- This multiplicity of governmental units is best understood in terms of the evolution of the United States. The federal system was the last step in an evolutionary process: Prior to the Constitution, there were the governments of the separate colonies and, prior to those, the governments of counties and smaller units. One of the first tasks accomplished by the early English settlers was the creation of governmental units for the tiny settlements they established along the Atlantic coast. As the new nation pushed westward, each frontier outpost created its own government to manage its affairs.
- The drafters of the U.S. Constitution left this multilayered governmental system untouched. While they made the national structure supreme, they wisely recognized the need for a series of governments more directly in contact with the people and more keenly attuned to their needs. Thus, certain functions — such as defense, currency regulation, and foreign relations — could only be managed by a strong centralized government. But others — such as sanitation, education, and local transportation — could be better served by local jurisdictions.

For Further Reading

STATE GOVERNMENT

- Before their independence, colonies were governed separately by the British Crown. In the early years of the republic, prior to the adoption of the Constitution, each state was virtually an autonomous unit. The delegates to the Constitutional Convention sought a stronger, more viable federal union, but they were also intent on safeguarding the rights of the states.
- In general, matters that lie entirely within state borders are the exclusive concern of state governments. These include internal communications; regulations relating to property, industry, business, and public utilities; the state criminal code; and working conditions within the state. Within this context, the federal government requires that state governments must be democratic in form and that they adopt no laws that contradict or violate the federal Constitution or the laws and treaties of the United States.
- There are, of course, many areas of overlap between state and federal jurisdictions. Particularly in recent years, the federal government has assumed ever broadening responsibility in such matters as health, education, welfare, transportation, and housing and urban development. But where the federal government exercises such responsibility in the states, programs are usually adopted on the basis of cooperation between the two levels of government, rather than as an imposition from above.
- Like the national government, state governments have three branches: executive, legislative, and judicial; these are roughly equivalent in function and scope to their national counterparts. The chief executive of a state is the governor, elected by popular vote, typically for a four-year term (although in a few states the term is two years). Except for Nebraska, which has a single legislative body, all states have a bicameral legislature, with the upper house usually called the Senate and the lower house called the House of Representatives, the House of Delegates, or the General Assembly. In most states, senators serve four-year terms, and members of the lower house serve two-year terms.
- The constitutions of the various states differ in some details but generally follow a pattern similar to that of the federal Constitution.

For Further Reading

CITY GOVERNMENT

- Once predominantly rural, the United States is today a highly urbanized country, and about 80 percent of its citizens now live in towns, large cities, or suburbs of cities. This statistic makes city governments critically important in the overall pattern of American government. To a greater extent than on the federal or state level, the city directly serves the needs of the people, providing everything from police and fire protection to sanitary codes, health regulations, education, public transportation, and housing.
- The business of running America's major cities is enormously complex. In terms of population alone, New York City is larger than 41 of the 50 states. It is often said that, next to the presidency, the most difficult executive position in the country is that of mayor of New York.
- City governments are chartered by states, and their charters detail the objectives and powers of the municipal government. But in many respects the cities function independently of the states. For most big cities, however, cooperation with both state and federal organizations is essential to meeting the needs of their residents.
- Types of city governments vary widely across the nation. However, almost all have some kind of central council, elected by the voters, and an executive officer, assisted by various department heads, to manage the city's affairs.
- There are three general types of city government: **the mayor-council**, **the commission**, and **the city manager**. These are the pure forms; many cities have developed a combination of two or three of them.

For Further Reading

CITY GOVERNMENT

- **Mayor-Council.** This is the oldest form of city government in the United States and, until the beginning of the 20th century, was used by nearly all American cities. Its structure is similar to that of the state and national governments, with an elected mayor as chief of the executive branch and an elected council that represents the various neighborhoods forming the legislative branch. The mayor appoints heads of city departments and other officials, sometimes with the approval of the council. He or she has the power of veto over ordinances — the laws of the city — and frequently is responsible for preparing the city's budget. The council passes city ordinances, sets the tax rate on property, and apportions money among the various city departments.
- **The Commission.** This combines both the legislative and executive functions in one group of officials, usually three or more in number, elected city-wide. Each commissioner supervises the work of one or more city departments. One is named chairperson of the body and is often called the mayor, although his or her power is equivalent to that of the other commissioners.
- **The City Manager.** The city manager is a response to the increasing complexity of urban problems, which require management expertise not often possessed by elected public officials. The answer has been to entrust most of the executive powers, including law enforcement and provision of services, to a highly trained and experienced professional city manager. The city manager plan has been adopted by a growing number of cities. Under this plan, a small, elected council makes the city ordinances and sets policy, but **hires a paid administrator**, also called a city manager, to carry out its decisions. The manager draws up the city budget and supervises most of the departments. Usually, there is no set term; the manager serves as long as the council is satisfied with his or her work.

For Further Reading

COUNTY GOVERNMENT

- The county is a subdivision of the state, usually — but not always — containing two or more townships and several villages. New York City is so large that it is divided into five separate boroughs, each a county in its own right: the Bronx, Manhattan, Brooklyn, Queens, and Staten Island. On the other hand, Arlington County, Virginia, just across the Potomac River from Washington, D.C., is both an urbanized and suburban area, governed by a unitary county administration.
- In most U.S. counties, one town or city is designated as the county seat, and this is where the government offices are located and where the board of commissioners or supervisors meets. In small counties, boards are chosen by the county as a whole; in the larger ones, supervisors represent separate districts or townships. The board levies taxes; borrows and appropriates money; fixes the salaries of county employees; supervises elections; builds and maintains highways and bridges; and administers national, state, and county welfare programs.

For Further Reading

TOWN AND VILLAGE GOVERNMENT

- Thousands of municipal jurisdictions are too small to qualify as city governments. These are chartered as towns and villages and deal with such strictly local needs as paving and lighting the streets; ensuring a water supply; providing police and fire protection; establishing local health regulations; arranging for garbage and other waste disposal; collecting local taxes to support governmental operations; and, in cooperation with the state and county, directly administering the local school system.
- The government is usually entrusted to an elected board or council, which may be known by a variety of names: town or village council, board of selectmen, board of supervisors, board of commissioners. The board may have a chairperson or president who functions as chief executive officer, or there may be an elected mayor. Governmental employees may include a clerk, treasurer, police and fire officers, and health and welfare officers.
- One unique aspect of local government, found mostly in the New England region of the United States, is the "town meeting." Once a year — sometimes more often if needed — the registered voters of the town meet in open session to elect officers, debate local issues, and pass laws for operating the government. As a body, they decide on road construction and repair, construction of public buildings and facilities, tax rates, and the town budget. The town meeting, which has existed for more than two centuries, is often cited as the purest form of direct democracy, in which the governmental power is not delegated, but is exercised directly and regularly by all the people.