

# FEDERALISM IN AMERICA

Federalism was part of the compromise devised by the Founding Fathers, the system was devised as a practical accommodation between those wanting a strong national government and those seeking to defend the powers of the state authorities and the conflicting interests of the large and small states. Under the federal system the national and state governments each had their own responsibilities.

Federalism was a half-way house between the concept of a centralized unitary state that was unacceptable to the thirteen states, and that of a confederation which was a weak association of autonomous states of the kind that had proved unsatisfactory between 1776 and 1787. Federalism arose out of the desire to bolster national unity whilst at the same time accommodate regional diversity.

Under the federal system powers were divided between the national (federal or general) government which in certain matters was to be independent of the governments of the associated states, and the state governments, which in certain matters were to be independent of the federal government. Both national and state governments operated directly upon the people, therefore American citizens had to obey two governments – their state government and the federal government. Each state is like a smaller model of the federal government as each state has an executive branch (headed by a governor), a Legislative branch to pass state laws and a judicial branch to uphold and interpret state laws.

The American federal system was not intended by the Framers to have a pyramid structure with the federal government at the apex because, in constitutional terms at least, the federal and state governments were to be of equal status within their own areas of authority.

As the Founding Fathers assumed that the states would continue to perform the major domestic roles such as the maintenance of law and order, the constitution does not deal in any detail with the functions of the states. The document is more specific on what the states could not do, that is, on the limitations of their freedom of action which was the price of greater national unity. The powers of the government can therefore be described in the following ways:

## (A) THE ENUMERATED POWERS OF THE FEDERAL GOVERNMENT;

Congress was given the right to legislate in certain specific areas in Article 1, these areas included defence, currency, and the regulation of interstate trade, borrowing money, collecting taxes, declaring war, naturalizing citizens and running post offices

(B) THE INHERENT POWERS OF THE FEDERAL GOVERNMENT;

The federal government had the right to do certain things because they were inherent in its role as a national government, most important was its right to conduct foreign policy and wage war

(C) THE IMPLIED POWERS OF THE FEDERAL GOVERNMENT;

Having listed specific areas where Congress may legislate, Article 1 section 8 of the constitution states that Congress has the right to make all the laws that are necessary and proper for carrying out the enumerated powers, hence later the Supreme Court agreed that the enumerated power of coining money gave the federal government the implied power to set up banks in America.

(D) THE CONCURRENT POWERS OF THE FEDERAL AND STATE GOVERNMENTS

In some areas such as taxation both the federal and the state governments can legislate simultaneously

(E) THE POWERS SPECIFICALLY DENIED TO THE FEDERAL GOVERNMENT;

There are some things which the constitution forbids the federal government to do for example, taxing exports, creating titles of nobility or favouring the ports of one state over another.

(F) THE POWERS DENIED TO THE STATES;

Article 1 section 10 restricts the activities of the state governments in certain fields, they cannot, for example, enter into treaties with foreign powers, nor can they impose import or export duties.

(G) THE RESERVED OR RESIDUAL POWERS OF THE STATES;

The tenth amendment was included as part of the Bill of Rights as the price for the ratification of the Constitution, it stated that anything not delegated to the Federal government should be left to the authority of the states or to the people. Many of the Founding Fathers believed that all the powers not expressly given to the federal government would automatically reside with the state governments.

The Framers of the constitution were divided over the degree of power to be given to the central government, some wanted a strong federal government, and others wanted more power to be given to the states

It has not always been easy to say which matters are in practice within the spheres of the federal or the state governments, as new issues have arisen, there have been disputes over the meaning of the words in the constitutional document. The Supreme Court has had to interpret the constitution and settle disputes in individual cases, according to Where, once it is granted that a government is acting within its allocated sphere that government is not subordinate to any other in the United States.

## THE DEVELOPMENT OF FEDERALISM

Because the Constitution did not lay down any definite line between the concurrent powers of the federal and state governments this has meant that the concept of federalism was able to develop over the subsequent centuries, federalism is not a fixed concept, it is ever changing, as America has changed so has the concept of federalism. Westward expansion, the growth in the population, industrialisation, improvements in communication and America's foreign policy role and world-power status all have had an impact on the development of federalism. All of these factors combined led to an increased role for the federal government and a decline in the power of the state government this was not what the Founding Fathers had originally intended. During the final third of the 20<sup>th</sup> century there was a move in the opposite direction, as Americans wanted to see power move in the opposite direction wherever this was possible and they wanted more power devolved to the states. It is therefore possible to discern three distinct phases of federalism in America:

1. DUAL FEDERALISM. (1780s – 1920s) - an era in which the state governments had significant power.
2. COOPERATIVE FEDERALISM (1930s- 1970s) - an era in which the federal government became more powerful, sometimes at the expense of the states. This is associated with Democratic presidents Roosevelt, Truman, Kennedy, and Johnson, during this era Washington gave grants to the states and stipulated how the money was to be spent.
3. NEW FEDERALISM (1970-present) -During this era wherever possible there was an attempt to devolve more power back to the states, this is associated, with Republican Presidents like Reagan and Bush, even Clinton, a Democratic President once declared that the era of big government was over.

### The Consequences of Federalism:

- Great variations in state laws on issues such as when people can marry, drive etc
- Great varieties in penalties for breaking the law
- A complex legal system with both state and federal courts
- Each state has its own laws, courts and constitution
- A complex tax system where Americans pay both state and federal taxes
- Political parties are decentralised and largely state-based
- Great regional diversity
- Elections are frequent and numerous and are state based and under state control