

Federalism, Nationalism, and Democracy in America*

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The growth of the public sector in recent years has been accompanied by both centralization and decentralization. More important than any such shifts of power or function between levels of government, however, has been the emergence of new arenas of mutual influence among levels of government. In this way recent developments in intergovernmental relations are adding a new dimension to the national system of representation. That the federal division of powers should serve a representative function is entirely in accord with the original design. A look at this design in the light of the theory of its founders helps one perceive this distinctive purpose. Then as now American federalism was primarily an instrument of national democracy. Current American experience with this aspect of intergovernmental relations, moreover, suggests questions for comparative study of the contemporary welfare state.

During the 1960s in the United States, as in most advanced countries, there was a large and sudden surge upward in the growth of the public sector, largely under the impetus of the central government. Supporters of this new phase of centralization sometimes see it as one more, and perhaps the final, stage in the transformation of the American polity into virtually a unitary system (Sundquist 1969:6–13; Reagan 1972:163). Critics, on the other hand, seek to revive federalism, frequently proposing a reallocation of functions between levels of government (Nathan 1975:111–15; Elazar 1973:284, 292). Some find evidence of such a revival in the decentralization accomplished by recent less restrictive schemes of federal aid (Nathan 1977:131, 164–65).

I should like to present a third position. My thesis is that more important than any shifts of power or function between levels of government has been the emergence of new arenas of mutual influence among levels of government. Within the field of intergovernmental relations a new and powerful system of representation has arisen, as the federal government has made a vast new use of state and local governments and these governments in turn have asserted a new direct influence on the federal government. What is interesting about American federalism today is not its particular allocation of functions or powers between levels of government,

but rather what it is adding to our national system of representation.

Moreover, I should say that these developments, while new, are in harmony with the original design of the federal system. Federalism as the mutually exclusive allocation of powers between the general and the state governments—dual federalism, it may be called¹—belongs to the past. Dual federalism was indeed a feature of the original design and, broadly speaking, characterized our system of multilevel government until the New Deal. Federalism in this sense does not apply, and given the realities of our times, could not be made to apply, to that system today.

But dual federalism was only one and a secondary feature of the original design. The theory governing that design made its territorial allocation of powers an instrument of a far more important purpose. That purpose was so

¹A mutually exclusive allocation of powers can be conceived as originating in at least two ways. The constituent power may endow the federal government with powers A and the state governments with powers not-A. Or it can endow the federal government with powers A and the state governments with powers B. Corwin coined the term “dual federalism” to refer to the second conception which for a hundred years after Marshall the Supreme Court frequently followed by holding that the Tenth Amendment was a separate grant of powers and therefore an independent limit on Congress. (Corwin, 1934:47–48; 1950:5, 15; 1974:369–72). The term has also come to be used more broadly to refer to the first conception, which would include the Marshallian view that the Constitution granted certain powers to the federal government, leaving the residuum, whatever it may be, to the states (Elazar, 1962:13–21). In Marshall’s day and for long after, that residuum was considerable (Grodzins, 1966:24–30). In this sense, one can say that dual federalism characterized our system until the New Deal.

*I wish to dedicate this paper to the memory of Martin Diamond from whom over the years I have learned much about American federalism and especially about the importance of theory to its original design.

to divide and organize power as to avert the evils and realize the benefits of free government. Within this general scheme, the federal division of powers served a representative function by creating a structure of mutual balance and influence between the two main levels of government. In this manner, dual federalism was a means to representational federalism (Eulau, 1973 and see footnote 5 below).

In the first part of this article I shall, therefore, be talking about the original federal design, in order, in the second part, to direct attention to the way that representational federalism has been reconstituted by recent developments in intergovernmental relations. Since these developments have parallels in other countries, I shall conclude with a few questions for comparative study suggested by American experience.

The Original Federal Design

The Democratic Purpose. To see the original federal design as the solution to a problem of representation links it directly and intimately to the great cause that led to the American Revolution.² That cause was liberty. To the colonial dissidents liberty meant certain personal rights, such as freedom of conscience, but above all political liberty, the right to government by "the consent of the governed." And

²In this historical section I have been much influenced by the democratic nationalism of George Bancroft. While an undergraduate I was explicitly warned off Bancroft and introduced instead to the views of Van Tyne, an elegant incrementalist with a strong bias toward the compact theory (1907; 1922:Ch. 1; 1929:Ch. 15). It was therefore something of a revelation to discover some years later the powerful and illuminating perspectives of the earlier writer. The composition of his history stretched over more than half a century, the first volume being published in 1834 and the final revision of the whole work in 1888. For his main themes, see, for example, in that edition, Vol. 1, Ch. 11, "Prelates and Puritans" and Ch. 19, "The Place of Puritanism in History"; Vol. 3, Ch. 9, "The Day-Star of the American Union"; and Vol. 6, Book 3, Ch. 3, "The Connecticut Compromise."

Bancroft's emphasis on the role of ideas in the Revolution, although not necessarily his derivation of these ideas from the Reformation, is supported by Louis Hartz' masterly study of the influence of Lockean Liberalism on American beginnings (Hartz, 1955:Chs. 1 and 2). In general I follow Bernard Bailyn's views of the source of the ideology of the Revolution and of the importance of this ideology in defining the issues of the conflict (Bailyn, 1967: esp. Ch. 5). On the origins of American federalism, however, I depart from Bailyn, who follows McLaughlin (Bailyn, 1967:209n) with whom I strongly disagree (See n. 4 below).

by "consent" they meant not some presumed agreement to a form of government delivered by social contract in the distant past, but rather a consent that closely and actively joined voter and representative (Bailyn, 1967:172-75). Ambiguities in this idea permitted various degrees of control by voters over representatives, ranging from strict delegation to a fiduciary relationship subject to frequent accountability. Sometimes the two tendencies were mixed, as when the town meeting of Boston in May 1764 at the height of the Stamp Act crisis delegated to their representatives in the provincial assembly "the power of acting in their public concerns in general as your own prudence shall direct you, always reserving to themselves the constitutional right of expressing their mind and giving you such instruction upon particular matters as they at any time shall judge proper" (Pamphlets:471). One part of the charge leads toward legislative discretion, the other toward popular sovereignty. Either makes government crucially dependent on the will of the voters.

Whether in a more or a less radical form, government by consent as understood by the colonial dissidents was fundamentally and irreconcilably in conflict with the theory and practice of British government in the eighteenth century.³ The Old Whig constitution had emerged from a medieval past and, although the philosophical and sociological foundations of the polity had been transformed by modernity, John Adams was quite right to see in it powerful remnants of the canon and feudal laws. This polity was hierarchical and corporatist and its hierarchy and corporatism did not depend, and were not believed to depend, upon the will of the voters. From the premises of the system virtual representation and parliamentary sovereignty followed logically. The polity included a great variety of corporate groupings, functional and territorial, often of unequal value and authority. Representation in the House of Commons was adjusted to this ordering. For the individual to be represented, it was not necessary that he actually have a vote for a member of Parliament, but only that persons belonging to his rank or order and residing in

³I have discussed the theory and practice of British politics in the eighteenth century, especially in relation to representation, in *British Politics in the Collectivist Age* (1969). The contrast that I draw between what I call Old Whig politics and Liberal and Radical politics in chapters 1 and 2 also marks out the main lines of ideological conflict between the American dissidents and the apologists in America and Britain for the policy and rhetoric of British Administrations from the Sugar Act to the Declaration of Independence.

his sort of community should have a vote. Indeed, according to these beliefs, if all the people had been enfranchised and grouped in constituencies that would give their votes equal weight, essential differentiations of value and authority would be destroyed. For the same reason, the sovereign authority could not be located in the people, but only in that complex body, the Parliament, which, including King, Lords and Commons, brought all elements of the polity into a common deliberation in their proper ordering. The American dissidents, seized with a different ideology, which descended from that failed democratic revolution of the English seventeenth century, the Commonwealth (Lindsay, 1943: Ch. 5; DeGrazia, 1951:21–28, 53–61), were impelled into fundamental conflict with this Old Whig regime and its rulers. The polemic in the decade or so before the Revolution rightly focused this conflict between hierarchy and democracy on the question of representation.

To give such emphasis to the democratic character of the American Revolution is to play down its national character. One could argue the opposite case, saying, for instance, as Schumpeter did (1947:216–17), that by the middle of the eighteenth century most Americans had come to regard the British rulers as foreigners who were interfering with American interests, but that, perhaps because the ideology of nationalism had not yet appeared, the Americans sought to legitimate with democratic principles what was really a national uprising. This hypothesis may gain some plausibility because of the primacy of nationalism over democracy in the creation of many new states in recent decades. It does not, however, fit the facts of the American case. Given the depth of the conflict one might well conclude that an ultimate decision for independence was inevitable. Some of the colonial leaders came to that conclusion rather sooner than others. But there is no reason to doubt the sincerity of the dissidents as a whole when through a decade of bitter debate they steadfastly claimed that they sought only freedom within the British empire, not freedom from it. For months after Washington took command of the Continental Army in 1775 he and his officers daily drank the king's health.

The federal question did not arise until independence had been chosen. Naturally. One could not seriously consider how or why to allocate powers between a central government and various provincial governments in an American polity until it had been decided to have an American polity. The prerevolutionary debate, therefore, although much concerned

with the specific powers that Parliament might exercise in comparison with those of the colonial assemblies, showed no preference for a federal arrangement.⁴ Indeed, the first major proposal put forward by a colonial spokesman embodied a unitary, not a federal solution to the problem of imperial government, when James Otis in 1764, echoing an idea favored by Franklin ten years earlier, proposed "an American representation in Parliament" (Pamphlets:445). In his scheme, which was said to have been "universally approved" of in the colonies (409), although insisting that the colonial legislatures be maintained (445–46), he conceded parliamentary sovereignty and granted that the provincial legislatures were unquestionably subordinate to that of Great Britain (449, 452).

In the following years, various plans were offered for a division of powers between the imperial and the colonial legislatures. These efforts to "draw a line" were based on such rationales as the distinction between internal and external taxation (Stephen Hopkins, 1765, in Pamphlets, 512; Benjamin Franklin, 1766:421, 424, 445–46) or between the power to regulate the trade of the colonies and the power to tax them (John Dickinson, 1767:146–47, 156–57). If one may call these schemes federal, one must, on the other hand, recognize that on the eve of independence they succumbed to a proposal which was once again

⁴I can clarify the thrust of this and the next paragraph by noting how radically my interpretation differs from the familiar and widely held views of Andrew C. McLaughlin who in this *Review* in 1918 argued "first, that the essential qualities of American federal organization were largely the product of the practices of the old British empire as it existed before 1764; second, that the discussions of the generation from the French and Indian war to the adoption of the federal Constitution, and, more particularly, the discussion in the 10 or 12 years before independence, were over the problem of imperial organization" (McLaughlin, 1918:215). Nor, a fortiori, can I accept the theses of his constitutional history that "the two main achievements" of the Revolution were "the establishment of limited government and the founding of the federal state"—his conception of federalism being dual federalism (McLaughlin, 1936:5). I find rather that the arguments of the dissidents emphasize not limited government, but self-government, and that accordingly the meaning they gave to federalism was primarily representational, not dual.

In contrast with McLaughlin's emphasis on law and historical experience, this interpretation stresses theory and ideology. At the same time I would strongly insist that historical experience and the embodiments it had given to English liberty were crucially important in that they lent concrete meaning to the abstractions of the debate. On neither side were the contestants mere ideologues. The conflict of their ideals was sharper for having a specific, historically informed content.

unitary insofar as it denied any and all authority to Parliament over the colonies. This was the idea—of what much later came to be known as “dominion status” (Smith, 1956:58)—that the colonies and Britain were “distinct states” within the empire connected with one another only by having the same king (James Wilson, 1774:745n; John Adams, 1774:37–38, 105, 170). This view of the juridical status of Parliament was carried over into the Declaration of Independence which, turning its full attention to justifying a break with the king, dismissed Parliament as never having exercised legitimate authority over the colonies. No one of the many and various schemes for imperial reorganization had solved the conflict for the simple reason that the conflict was not about the territorial allocation of powers, but about the democratic basis of power.

The National Question. When this failure had led to independence, the national question came suddenly and urgently to the fore. What was the source of the authority of the new government? Obviously, the consent of the people—that and nothing more. But was this consent given by one people or by several peoples, by the nation or by the states? The Declaration of Independence described itself in Jefferson’s words as the act of “one people” and eleven years later the Constitution similarly declared that it was ordained and established by “We, the people.” According to Abraham Lincoln, the unity of the nation asserted in these documents dated back to the time of the Continental Congress when the colonists chose to form the Union, which is, in his words, “older than any of the States, and, in fact . . . created the States” and “produced their independence and liberty” (1861:394).

This version of events provides the historical basis for the national theory of American federalism. According to that theory, a single sovereign power, the people of the United States, created both the federal and state governments, delegating to each a certain limited authority. In this theory of the juridical basis of the American polity popular sovereignty appears as a single national will acting as the constituent power. The compact theory, on the other hand, takes a different view of the same events and arrives at a different view of the Constitution and of federalism. According to this view, the colonies became separate, independent polities when they cast loose from Britain and only thereafter entered into an agreement to have a general government for certain limited purposes. From this theory

justifications have been deduced for secession, interposition, or at least extensive “states’ rights.”

The national theory, I should say, is a superior interpretation of what actually happened, an interpretation incidentally which has been given further powerful support by recent historical research (Morris, 1974:1068–88; Rakove, 1975:Chs. 2, 3 and 4). The important thing, however, for the present inquiry into the original design of American federalism, is that the men who conceived and elaborated that design worked from the premises of the national theory (Morris:1064, 1073). Their federalism presupposes their nationalism. In their view the constituent power was one people, the nation. What they sought to produce in the constitution of the new polity was a scheme by which that nation would act not only as the constituent power, but also as the continuous controlling and directing influence in the political life of the new polity. In seeking to give such effect to this idea of national democracy, they were consistently carrying out the belief in government by consent that had rationalized and impelled the resistance to Great Britain in prerevolutionary days. The problem of representation which had preoccupied the energies of that long struggle continued to be central to the shaping of the federal structure.

The Framers’ Theory. Theory had powerfully directed their labors of resistance and theory powerfully directed their labors of construction. In the later as in the earlier phase, the orienting ideology consisted of those same liberal democratic ideas that had come down from the seventeenth century. In their work of construction, however, the Americans also made wide use of “the new science of politics” which had blossomed in the early eighteenth century (Ranney, 1976:141–42; Adair, 1957:347–48). This new study was by no means conceived as value-free, but was dominated by the new hope of the time, free government. Its main concern was how to protect liberty by dividing and balancing power within a polity. The premise of this concern and of its consequent technique was a certain distrust of human nature. Although many of these authors, as in the case of the Americans, had had a Protestant upbringing, I would not say that this distrust was Calvinist—it did not approach that black despair—nor even that it was distinctively Christian or biblical. It was more modern, more secular, a workable pessimism which saw a love of power in all men and feared any monopoly of the instruments of

power, but which held that if control over these instruments were properly divided and balanced, power could be made to check power so that it would be used only for the common good. One technique was a separation of powers according to the "natural" functions of government or according to the ranks and orders of society. Another consisted in a division of powers between a general government and a number of provincial governments. It was, of course, this latter sort of balancing that the framers sought to achieve in their federal design.

That design was unique. At Philadelphia in 1787, it is generally recognized, the Americans invented federalism as it has come to be understood since that time (Diamond, 1961:21–23). The scheme had no precedent (Federalist 37:226). Its authors were not, as some have claimed (McLaughlin, 1918:238–40), attempting to restore an allocation of powers between central and provincial governments like that the colonists had experienced in the days of "benign and salutary neglect" under the old empire before the Sugar Act. They were surely not trying to imitate the Dutch, Swiss or German regimes, a type of polity which they regarded as "the cause of incurable disorder and imbecility" (Federalist 9:52; Riley, 1968:401). Their new creation was theory-based. Yet even in drawing generously on the political science of their time, they did not follow their authorities slavishly. Indeed, their inventiveness consisted precisely in combining elements taken from two incompatible constructions of, respectively, Montesquieu and Hume.

Montesquieu's contribution came principally from his famous discussion of the confederate republic in Books VIII and IX of *The Spirit of the Laws*. There he was trying to reconcile the conflicting conditions conducive respectively to liberty and to security. In conformity with the conventional view, he held that "republican government" could flourish only in a small state where "the public good" is "more obvious, better understood, and more within the reach of every citizen." In an extensive republic, on the other hand, although its defensive posture would be stronger, the public good would be "sacrificed to a thousand private views" and encroachments on liberty would be able to grow without arousing general resistance (120). Distance, size or—more properly—scale would present the man of ambition with his opportunity and his temptation. Montesquieu proposed to realize the respective advantages of smallness and largeness of scale without introducing their disadvantages by

means of a confederate republic. Formed by "a convention" among a number of small republics, such a polity could amass defensive power without making itself vulnerable to the internal corruption of despotism, because the member states would retain the independent force to prevent the abuse of power by the general government. The territorial pluralism of these continuing small governments would counteract tendencies toward corruption in the wider polity (126–27).

Montesquieu's confederate republic alone was clearly not the model for the constitution makers at Philadelphia. It was rather the sort of regime which in their eyes had proved to be both inefficient and dangerous to liberty under the Articles of Confederation. Their radical transformation was to impose on it certain features of a unitary regime. For the sake of "stability and energy" (Federalist 37:227) they gave the general government a new instrument of power by enabling it to act directly on individuals. But their main concern (Madison, 1787:273–79; Convention: 75–77; 88–89) was to add a further protection of "republican liberty" by providing for the representation of individuals in the federal legislature.

The significance of this new scheme of representation was given its classical exposition in Madison's Tenth Federalist. His idea is an adaptation of a proposal put forward by Hume in his essay on the "Idea of a Perfect Commonwealth" (Adair, 1957:348–49, 353). In that essay, first published in 1752, Hume sketched an elaborate system of representative government and against this background attacked the "common opinion" that republican government is more likely to survive in a small than a large polity. On the contrary, he argued, the "near habitation" of the citizens of a small polity will make even their division into small parties vulnerable to "the force of popular tides and currents." In the large representative republic, however, not only will the "higher magistrates" "refine" the opinions of the voters, but also the various parts will be less likely to unite against "the public interest" (Hume: 513–15). Madison improves on this model by stressing the diversity of social and economic interests that will be embraced in the more extensive republic. Thanks to the greater differentiation that goes with larger scale, the social pluralism of the general government will counteract tendencies toward a factional abuse of power in the subordinate governments.

The invention at Philadelphia transformed Montesquieu's model by integrating with it this Humean construction. The new unitary features meant that now the social pluralism of the

nation as a whole would be represented in the general government, which, within limits, would be able to avert the dangers of faction within the states, while the continued existence of the states meant that, as in Montesquieu's model, territorial pluralism would constitute a safeguard against encroachments by the general government. It was a unified, internally coherent and highly original model of a new kind of government. This invention resulted from compromise, to be sure—not the compromise of stalemate, however, but of social learning.

Federalism as Representational. In the *Federalist* papers and the ratification debates, the new model was set forth and defended. It had a military version in which the possession of instruments of coercive force by each level held the balance for free government (Diamond 1961:55; *Federalist* 46:309–11, 60:390). "Power being almost always the rival of power," wrote Hamilton, "the general government will at all times stand ready to check the usurpations of the state governments, and these will have the same disposition towards the general government." His next sentence revealed the motor in the mechanism: "The people, by throwing themselves into either scale, will infallibly make it preponderate. If their rights are invaded by either, they can make use of the other as the instrument of redress" (*Federalist* 28:174). In short, the same force which, according to the national theory, had brought the Constitution into existence and formed its juridical foundation, the sovereign people, would continue to guarantee its free operation.

This military version of how the federal design would operate is hardly more than an historical curiosity today. But its authors were, of course, also thinking in larger terms and of a more political application. They expected the social pluralism of the general government to operate not only in emergencies, but also in day-to-day decision making. Nor did they see this function as merely negative—to prevent narrow and oppressive majorities from forming or acting. Their political science taught them that "the larger the society . . . the more duly capable it will be of self-government" (*Federalist* 51:341). They therefore expected that the majority coalitions which did form within the general government not only would respect "the rights of every class of citizens," but also would positively express "principles . . . of justice and the general good" (340–41). The framers were not some sort of early-day laissez-fairists. Indeed, Turgot gave them a famous

scolding for their interventionism. They lived in an age of state-building and mercantilism and fully recognized the need for active government in their developing economy. They saw no need, however, to trade off liberty for development and, although by no means utopians, they had high hopes for their political engineering, believing that its processes of mutual balance and influence would not only break the violence of faction, but also produce decisions worthy of general assent.

In the *Federalist* papers and the ratification debates, discussion of the military aspects of the federal balance shade off into a more political version, which tells us a good deal about how the American system has actually worked and which is still vividly relevant to its operation today. "Notwithstanding the different modes in which [the federal and state governments] are appointed," Madison wrote in the 46th *Federalist*, "we must consider both of them as substantially dependent on the great body of the citizens of the United States. . . . The federal and the State governments are in fact but different agents and trustees of the people, constituted with different powers, and designed for different purposes." "The people" is "the ultimate authority," the "common superior" of both. Nor does he mean this only in the sense of juridical foundation or military balance. He is also concerned to show how the people, acting as the common electorate of all levels of government, bring state perspectives to bear on federal decisions and federal perspectives to bear on state decisions. The three main propositions in his analysis are that these perspectives will not merely reflect the immediate wishes of the voters, but will be shaped by the processes of self-government in which the voters take part (*Federalist* 56:366–68; 10:59; Huntington, 1959:200; Eulau, 1974:161); that the influence between levels will pass from state to general government, but also from general government to state government (*Federalist* 46:306–08, 53:351, 56:368; Madison, 1787:275; Convention:74; Diamond, 1961:48–50); and finally that the medium through which this influence will be transmitted will be the common electorate of the two sets of governments (*Federalist* 46:306; 308–09; 57:371; Eulau, 1974:162).

The essence of the invention of 1787 was the use of the same electorate to choose two sets of governments, each with constitutional protection. As in the military version of the new federal system, where the people were to maintain the balance for free government by casting their weight in one or the other scale, in this political version the medium of interaction

was the common electorate. Governing himself through two different governments, the voter views the political world from two perspectives, one shaped by the social pluralism of the general government, the other shaped by the territorial pluralism of state government. In his political life, as a member of one nation, he does not separate from one another the two perspectives and the interests each elicits in him. His state perspective affects his choices and decisions in federal politics as his federal perspective affects his choices and decisions in state politics. One may call this process "representational federalism" because it gives representation in the general government to the territorial pluralism of the states and representation in the state governments to the social pluralism of the general government.⁵

In framing and debating the new federal structure, Americans of the time were concerned with the same central problem that had stirred them to criticism, resistance and rebellion a generation before: the problem of representation. Now as then their interest in the

allocation of specific powers between levels of government was secondary to this overriding concern. They did believe that certain government functions were more effectively exercised at one rather than the other level. Defense, for instance, was more properly a function of the general government. Yet, guided by their primary concern for liberty, they did not hesitate to divide authority over this function, giving important military powers to the states.

Federalism has often been advocated primarily as a means of accommodating levels of government to territorial diversity. The compact theory would lead one to expect this to be the major subject of debate during the framing and ratification of the Constitution. Supporters as well as critics did recognize that the "sentiments, habits, and customs" of the states were diverse and that, therefore, "a government which might be very suitable for one might not be agreeable to the other" (Elliott 2:199). Yet the great mass of utterance at Philadelphia and the ratifying conventions displays remarkably little concern with this fact. Even the most ardent champions of greater powers for the states gave little or no weight to the argument from territorial diversity. Luther Martin, for instance, did not ground his advocacy of state power in his identification with Maryland as a distinctive community or in its need for authority commensurate with its special values or way of life. When he attacked the new powers of the federal government, he, as much as Madison or Hamilton, saw liberty as his goal and the new science of politics as the means for reaching that goal (Elliott 1:348-49, 351). He differed from them only in clinging to the conventional wisdom of the time as put forward in an unalloyed version of Montesquieu's theory of the confederate republic (353). It is consistent with this ground of the differences among Americans of that day over the Constitution that a bill of rights, which protected the liberties most valued by their common ideology and which was, as John Hancock said, "in no wise local, but calculated to give security and ease alike to all the states" (Elliott 2:175), served to win over critics and produce the quick subsidence of opposition that followed ratification.

New Structures of Representational Federalism

In summary, my historical thesis is: that in making a democratic revolution, the American rebels created a nation and invented representational federalism as a means of governing their new national democracy.

⁵I claim no originality for this view of American federalism. It is simply a restatement of the classical liberal view of the function of the division of powers in popular government. I have avoided, however, the *laissez-faire* deviation which conceived of this function as being merely the restraint of government action (Friedrich 1968:195-96). My interpretation has many points in common with that of Samuel P. Huntington (1959). He also sees not mere balance, but continual political interaction between the two levels of government (192) and stresses not only Madison's expectation that state governments would have influence on the federal government, but also that "from Minnesota railway rates to Little Rock schools, the national government, in keeping with Madison's principle, has frequently intervened to protect local minorities against local majorities" (198).

I have taken the term "representational federalism" and much of the analysis presented by Heinz Eulau (1974). I have adopted his notion that intergovernmental influence is exercised through the "shared" electorate, a conclusion which need not be based on inference only, as Eulau says (162), but is clearly what Madison meant (Federalist 46:305, 306). I depart from his interpretation mainly in finding that Madison expected not only that the states would influence the general government, but, also that the general government would influence the states.

Representational federalism is not the same as cooperative federalism. The latter term refers to direct relations between levels of government, as in state or local implementation of federal grant in aid programs. The term was coined around 1938 (Graves, 1964:821), when during the New Deal the federal grant system was being vastly expanded and in this and other ways the old pattern of dual federalism was being brought to an end (see above note 1). Representational federalism is compatible both with dual federalism and, as I shall argue in the second part of this paper, with cooperative federalism.

A Rationale for the States. The reason for looking at this history and especially at its theoretical component is that they tell us something important about how the American polity has actually worked and continues to work. This perspective, in the first place, throws light on what we can and cannot expect of the states today. Any modern polity will have one or more levels of government. The smaller governments may be designed simply as administrative districts under the central authority. They may be set up for an economic purpose, and, accordingly, endowed with powers and boundaries suited to a distinctive complex of agricultural, commercial or industrial activity. They may be so laid out as to match patterns of cultural differentiation, as in the case of linguistic boundaries or other indicators of diversity in community values.

None of these rationales, administrative, economic or cultural, makes sense of the American states, except occasionally and accidentally. Look at the map. It must make you wonder whether there could have been a United States, if the rectangle had not been invented. Typically, those boundaries were not laid out to fit some pre-existing community of value or complex of interests, nor has it been possible to adapt them to territorial diversities as these have emerged. Most of the boundaries were dictated by Act of Congress, usually when the area was sparsely populated and had only the status of a territory. If the purpose of the states had been to provide a level of self-government functional to territorial diversity, then it would have been imperative, in this rapidly growing and developing society, that their boundaries be changed from time to time. On the contrary, however, our national policy toward federalism has been to freeze the boundaries of the states into a virtually unchangeable form by giving them constitutional protection.

Michael Reagan observes that the constitutional meaning of federalism still has importance in only one respect: the guarantee of the independent existence of the states (1972:158). This may be so, but it does not mean that federalism is dead. Such a guarantee, to be sure, is dysfunctional to an administrative, economic or cultural role for the states. It is, however, highly functional and, I should say, indispensable to their political role in representational federalism. Even if state and federal power were completely overlapping, even if our society were perfectly homogeneous, it would still be necessary, in the light of the original design, that state government have its constitutionally protected existence. The rigidities of our federal system may often frustrate the

purposes of public administration, economic efficiency and community living, but they make political sense as the foundation of a major and distinctive element of our representative system.

The Dual Role of Party. Over the course of time, both state and general governments have performed in various ways the roles assigned them in this system by representational federalism. When one asks what specific forms these processes have taken, the answer, until very recently, I suggest, would be found mainly in the mode of operation of the major political parties. The original federal design endowed the voter with two basic roles, a federal role and a state role. Typically, any major American party has reflected this dualism. The territorial pluralism of the federal structure has had such great and obvious effect as to lead us often to speak of the parties as coalitions of state and local organizations. At the same time, we recognize that their participation in the politics of the general government draws them into a competition which addresses problems and appeals to group interests transcending state and local boundaries. In spite of the resulting territorial and social pluralism, each party is also national, as a body of voters possessing at all levels of government common symbols which focus sentiments of party identification and ideas of party principle. This affectual and cognitive identification is a bond of cohesion that helps make each party a forum within which federal and state perspectives mutually influence one another, instead of merely finding expression in separate spheres.

The politics of civil rights during the past generation provides striking illustration of how the Madisonian mechanism may work through the medium of party. I will merely suggest the outlines of this very complicated process. After World War II, the movement of southern blacks to Northern cities admitted them for the first time to effective political participation in the social pluralism of the more extensive republic. The competition of Republicans and Democrats for this vote (Brauer, 1977) led to intervention by the federal government to remedy the denial by state governments of rights generally enjoyed by American citizens (Wilhoit, 1973:201-12). At the same time, within the Democratic party an interaction between federal and state levels was producing political changes tending toward the same result. Action by the national party organs supported and stimulated within some southern state parties the rise of loyalist groups favorable to civil rights. These groups fought the old leadership,

won power in state parties and influence on state government and so were able in some degree to ease the acceptance of federal initiatives. Thanks to the party system the pluralism of the more extensive republic helped bring about a universalistic result.⁶

Public Sector Politics. I have made this brief reference to the way that representational federalism has worked through the medium of the party system in order by contrast to bring out the significance of a recent and major change.⁷ The party system operates outside government to bring influence to bear on government. Recently, however, powerful new centers of influence on what government does have arisen within government itself. These new centers of influence arise and act within what one may call the public sector of the polity. For the polity like the economy has a public sector. The private sector of the polity consists of people in their private capacities trying to influence government action. This includes their activity as individuals, as members of organized groups, as adherents of political parties. The character of the public sector of the polity is evident by contrast. It consists of people in their public capacities trying to influence government action: a chief executive vetoing a bill, legislators logrolling appropriations, bureaucratic experts developing new programs, mayors lobbying Congress for more federal aid.

Within this public sector of the polity two types of influence have been on the rise during

the past decade or so. One results from functional specialization in the modern state. I call it the professional bureaucratic complex (Beer, 1976:157–66). The other results from territorial specialization and I call it the intergovernmental lobby (Beer, 1976:166–71). The action and interaction of the professional bureaucratic complex and the intergovernmental lobby constitute the new form taken by representational federalism.

The growing role of professionalism in government is so well recognized as to need only a few words to show its relevance to the present discussion. People with scientific and technical training have been important to the modern state from its very beginnings. But during the past generation or so scientific advance has proceeded at such a vastly increased rate as to give “professional specialisms” (Mosher, 1968:105) a new role in policy making (Beer, 1973:74–80). The term “professional bureaucratic complex” is singular: the examples are many. One is the “military industrial complex,” from which I adapted the name. A similar structure is shared by the “health syndicate,” the “educational establishment,” the “highway lobby.” The main component in any such complex is a core of officials with scientific or professional training. This bureaucratic core also normally works closely with two other components: certain interested legislators, especially the chairmen of the relevant specialized subcommittees, and the spokesmen for the group that benefits from the program. Such a tripartite complex or subsystem is Seidman’s “iron triangle” (1970:37).

The intellectual history of federal domestic programs since the days of the Great Society is deeply marked by the influence of such complexes of professional expertise. I do not mean to exclude the continuing influence of more familiar political agents, such as an activist president responsive to problems and to the suggestion of problems. But I would remark how rarely additions to the public sector have been *initiated* by the demands of voters or the advocacy of pressure groups or the platforms of political parties. On the contrary, in the fields of health, housing, urban renewal, transportation, welfare, education, poverty, and energy, it has been, in very great measure, people in government service, or closely associated with it, acting on the basis of their specialized and technical knowledge, who first perceived the problem, conceived the program, initially urged it on president and Congress, went on to help lobby it through to enactment, and then saw to its administration (Beer, 1976:160–62). Scientific and technical knowledge by its nature is

⁶One of the more remarkable examples of this process is the emergence of a unified Democratic party in Mississippi. This struggle began shortly after World War II, reached a peak of intensity during the sixties and culminated in an incredible denouement when in 1976 Governor Finch, formerly an arch-segregationist, joined with Aaron Henry, an original member of the Mississippi Freedom Democratic Party, to integrate the state party organization. An explicit element in the successful strategy of the loyalists was to use their influence with the national party as leverage on the regulars to gain a measure of power in the state party. There is some analysis of this process in Fortenberry (1972:493–95) and Bass (1976:207). But I am depending mainly on the detailed analysis of a long, unpublished paper by a graduate student of the Harvard Government department (Stekler, 1976).

⁷In the rest of this section of this paper, I am largely summarizing results of research done for an analysis of the politics of the passage of the general revenue sharing act on 1972 (Beer, 1976). Rather than citing again the evidence brought forward there and the references to other work, I shall for the most part refer to the relevant pages of that article and to some other work of mine. I regret the appearance of self-advertisement, but this procedure seems to suit a summary and certainly makes for easier reading.

specialized and the prodigious increase in the number of categorical grants-in-aid to state and local governments is an indication of the rising influence of professionalism. In 1962 there were some 160 separate categorical programs (Walker 1975:134). The catalog of federal grants in aid for 1976 lists 1,030. The amount of aid rose in proportion from \$7 billion in 1960 to \$60 billion in 1976 (CGO, 1975:25).

This expansion of the public sector was accomplished by an unprecedented use of the federal structure. With few exceptions the new specialized programs were not administered directly by the federal government, but by means of state and local governments. One might expect such attempts to join bureaucratic agents at different levels of government in the administration of specialized programs would create awkward inter-level conflicts. Actually, among similarly trained professionals their common discipline has facilitated cooperation, helping them stand off the claims of rival disciplines and the directives of coordinating authorities. Vertical bureaucratic hierarchies cutting across different levels of government have become a main feature of the present phase of American federalism.

Technocracy and Topocracy. The general term which suggests the decision-making power based on technical expertise of the new professionals is "technocratic" (Beer, 1973:74-80; 1977a:30-34). By using it I do not mean to raise fears of a dictatorship of men in white coats. On the contrary, one of the more interesting features of this new influence is the way in which it has promoted the rise of a countervailing power in the form of the intergovernmental lobby (Farkas, 1971; Haider, 1974; Plant, 1975). By the intergovernmental lobby I mean the governors, mayors, county supervisors and other officeholders, usually elective, who exercise general responsibilities in state and local governments.

Like the new professionalism the intergovernmental lobby in some form can be found in other advanced countries. A term suitable for comparative use is needed. I propose the word "topocrat," from the Greek *topos*, meaning "place" or "locality," and *kratos*, meaning "authority"—and herewith thank its author, Roy Macridis, who responded to my request for a single, general and non-American term that would save me from having to say "state and local government officials" and the equivalent mouth-filling phrase when speaking of other countries.

In the United States these topocrats act in a representative capacity through their organiza-

tions, the National Governors Conference, the Council of State Governments, the United States Conference of Mayors, the National League of Cities, the National Association of Counties, the International City Management Association, and the National Legislative Conference, and through alliances of them, such as the "Big Six" during the initial enactment of general revenue sharing. But their most important front lies along the continual, almost day-to-day activity of individual officeholders and their agents, offering advice and pressing requests before the executive and legislative branches of the federal government.

To appreciate the significance of this activity we must remind ourselves how very recently state and local officeholders began to take an interest of this kind and degree in what goes on in Washington. Their sudden surge of activity dates from the mid-sixties and came as a response to the increase in federal programs spawned by the new professionalism. As the mayors and other executives of the governments through which these programs were carried out became aware of their value—their political value and their problem-solving promise—they developed a heightened interest in and increasing contact with federal policy making and administration. Their Washington activities grew and their national organizations headquartered there expanded in members, budgets and staffs. In this sense it was not the lobby that created the programs but the programs of the professional bureaucratic complex that created the intergovernmental lobby (Beer, 1976:163-71).

In time the intergovernmental lobby acquired sufficient political influence to initiate demands more closely reflecting its members' political interests. A major demand was for fewer federal strings on more federal money. Accordingly, in the past few years the mayors, governors, county executives and others have played a major role in bringing about a shift in the character of federal aid. In 1966 categorical aid accounted for 98 percent of federal aid. By 1975 it was down to 75 percent as a result of general revenue sharing and block grants (GCO, 1976:26).

In brief, then, I am saying that over the past generation and especially since the early sixties the technocratic tendencies of the new professionalism have called forth the topocratic tendencies of the intergovernmental lobby. If one asks whether the process has been centralizing or decentralizing the answer must be a bit complicated. It has been strongly centralizing insofar as the new programs have carried the technocratic perspectives formed at the federal

level into the daily thought and action of state and local governments. It has been decentralizing in that these governments, as the administrative agents of the new programs, have often been able to adapt them to their own local purposes, an option that has been deliberately expanded by some loosening of federal strings. The process was centralizing in that it drew state and local office holders into direct contact with the federal government and decentralizing in that it has brought their topocratic perspectives to bear on federal policy making. The trend is not toward a centralized unitary system. Neither is there much sign of significantly greater autonomy for state or local governments. But whatever that balance may be, the interesting and important thing, it seems to me, is the way in which the polarity of representational federalism has been reasserted. The impact of technocrat and topocrat upon opposing levels of government is adding a new dimension in an old pattern to our system of national representation.

Comparative Perspectives

In advanced countries today, there is a good deal of concern over the great and growing size of the public sector of the economy (Beer, 1977b). In this article I have dealt with a parallel development in the United States: the growing influence of the public sector of the polity and specifically the emergence of new structures of representation within that sector. These structures reflect enduring traits of American federalism. They also resemble certain developments in other advanced countries and their study should therefore be assimilated to the comparative study of the contemporary welfare state.

That study is often focused on the conflicts and connections of function and territory, of center and periphery (Ashford, 1976a, 1976b; Tarrow, 1977). My similar concern with the interaction of social pluralism and territorial pluralism in the American experience suggests two broad questions for comparison and contrast with other countries.

First, the technocratic question. Professionalism extends its domains in all advanced countries and surely will continue to do so. The modern state at this late date is not likely to turn its back on science and technology. In these countries, as in the United States, there has been a surge of social spending since the 1960s. Professional, centrally directed hier-

archies are the normal agencies of the programs financed by this spending.

But whom or what do these agencies represent? In their dealings with their local authorities they represent their central governments. To what extent do they also represent social and economic interests within the society and outside the public sector? In many welfare states, beginning as far back as the interwar years, organized interests developed relations with government departments so close and institutionalized as to constitute a system of functional representation. How far are the professional hierarchies of recent years dependencies of these corporatistic arrangements? How far are they veritably technocratic in the sense of generating their own initiatives from within the public sector and independently of outside interests? In what ways, if any, is the social pluralism of modern society transmitted to the professional bureaucratic complex?

Second, the topocratic question. In spite of overpowering forces making for centralization, the modern state seems to be unable to do without territorial subunits. Nor are these mere branch offices of administration, but rather governmental units with a political capacity. Much has been said, but little done in any country about decentralizing power to them or enlarging their autonomy. They have been widely used, however, as vehicles for carrying out the programs of central governments and, at the same time, have taken an increasingly active role as agents of representation before, and indeed, within those central governments. In other countries, both unitary and federal, the equivalent of the American intergovernmental lobby has appeared and flourishes. These varieties of topocratic representation are many and complex and light up major contrasts among the different versions of the modern state.

As we will want to look into the relation of technocratic representation to older processes of pressure group politics and functional representation, we shall also ask what are the conflicts and connections between topocratic representation and the older structures of territorial representation. In the U.S., for instance, the political relations of mayors and members of Congress are one of the great unexplored mysteries.

Moreover, whom does the topocrat represent when he formulates the presumed needs of his government before central authorities? He will commonly speak on behalf of groups among his constituents. He may know and be responsive to them. He might even have been chosen by

them in part because he was expected to be a good lobbyist in the national capital. Yet he is subject not only to their wishes, but also to an array of influences proceeding from his position as the agent of a bureaucratic and political body. This governmental position will affect and may dominate his representative role.

I can communicate my unease at these technocratic and topocratic dilutions of the popular will by saying that the new structures have a strong connotation of corporate rather than personal representation. They do add real strengths to the modern state. But this may be at some cost to free government.

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