

ISSUE BRIEF

“Information to Action”

Topic: Balanced Federalism

Title: *FEDERALISM: THE ENGINE OF THE CONSTITUTION* by Joshua Charles

Federalism was perhaps the greatest constitutional innovation of the Founders. It is not an exaggeration to say it is the “engine” of our entire system.

While our three branches provide an internal mechanism by which power is checked and balanced within our federal government, the Constitution’s division of power between the federal and state governments was its most revolutionary feature. In short, it meant that both the national and local governments possessed their own independent sovereignty. The federal government possesses only those powers specifically delegated to it by the Constitution. The rest remains with the states.

This is strikingly different from what today is called a “unitary” government, but which the Founders often referred to as a “national” or “consolidated” government observed in most other countries. The essence of that difference is simple: in a national government, the central government has all the power, and any subdivisions within its jurisdiction (e.g., provinces) are simply extensions of that national power. As such, whatever the national government decides applies to every citizen in the nation by default. There is no challenging it. The provincial governments have no say in the matter, as they lack an independent source of sovereignty.

In a federal government, on the other hand, the central government has only “limited” powers, and each state has its own set of sovereign powers the national government cannot violate.

As Madison observed in Federalist No. 39, the federal government’s jurisdiction “extends to certain enumerated objects only, and leaves to the several states a residuary and inviolable sovereignty over all other objects.” He explained further:

“The powers delegated by the proposed Constitution to the federal government are few and defined. Those which are to remain in the state governments are numerous and indefinite. The former will be exercised principally on external objects as war, peace, negotiation, and foreign commerce; with which last the power of taxation will, for the most part, be connected. The powers reserved to the several states will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the state. The operations of the federal government will be most extensive and important in times of war and danger; those of the state governments in times of peace and security.”

Alexis de Tocqueville, who authored the classic 1830's work, *Democracy in America*, succinctly summarized the type of political society created by the Constitution as one "in which several peoples are fused into one nation with regard to certain shared interests, while remaining as separate confederates for all else."

Jefferson expounded this constitutional principle as follows:

"The true theory of our Constitution is surely the wisest and best, that the states are independent as to everything within themselves, and united as to everything respecting foreign nations. Let the general government be reduced to foreign concerns only, and let our affairs be disentangled from those of all other nations, except as to commerce, which the merchants will manage the better the more they are left free to manage themselves, and our general government may be reduced to a very simple organization, and a very inexpensive one: a few plain duties to be performed by a few servants."

According to Jefferson, maintaining liberty was simply not possible without maintaining the limits placed on federal power. He, and the many of the Founders, believed this was even more important than the Bill of Rights itself. "I consider the foundation of the Constitution as laid on this ground," he said, "That [all] 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. To take a single step beyond the boundaries thus specially drawn around the powers of Congress is to take possession of a boundless field of power, no longer susceptible of any definition."

As a car without an engine all but ceases to be a car, our Constitution without federalism would cease to be that uniquely American system it was designed to be.