FEDERAL UNION IN AMERICA

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THE American war of independence against the German despot George III of England lasted, in the opinion of an early American historian, eight times as long as it need have done, because the thirteen colonies fought as sovereign states. In Fiske's words: "Had there been such a government that the whole power of the thirteen states could have been swiftly and vigorously wielded as a unit, the British might have been driven to their ships in less than a year."

In 1777, two years after the outbreak of the war, the colonies banded themselves into what they described in its Covenant as a "League of Friendship" for the more efficient prosecution of the war, and in the hope that their self-styled "perpetual Union" would enable them to win the peace. They gave themselves the misleading title of "The United States", which, like "The United Nations", proved good intentions if little else.

Their constitution provided for a law-and-equity Tribunal, an international armed force, an international currency system, free migration and various other measures which in certain quarters to-day would be mistakenly described as a definite abrogation of national sovereignty on the part of the various States. The "Union" was, however, a *con*federation—a league with the same booby-traps but more elaborately camouflaged. The States signed away their sovereignty on paper, and retained it in practice. This self-deception sufficed, after six more years of struggle and muddle, to bring them what optimists call "Victory" in a war which their manifest disunity had invited.

Scarcely three years after the treaty of peace, signed in Versailles on the 3rd September, 1783, the hapless thirteen were already in bondage to their dearly-bought "independence". The States were conducting internecine wars in trade and currency. Inter-state currency notes (Congress money) were derisively used as wallpaper, five States were mobilising against each other; the Pennsylvanian army was committing atrocities against settlers from Connecticut. Massachusetts would not allow League troops to enter its territory even to guard the League's own arsenal against Shay's rebels. Eighty armed men intimidated Congress at Philadelphia, and the militia of the State of Pennsylvania raised not a finger to prevent them. The representatives had to flee by night, and became fugitives.

Respected thinkers of the time were in despair. Washington wrote to Jay: "I am uneasy and apprehensive, more so than during the war"; to James Warren: "We are descending into the vale of confusion and darkness", and to George Mason: "I have beheld no day since the commencement of hostilities that I thought our liberties in such imminent danger as at present . . . We are verging fast to destruction."

What had gone wrong? A painstaking diagnosis of the cause of the trouble led to the discovery of a completely new principle of government which we now know as federation, and which has since been successfully applied in Switzerland, Canada, Australia and the U. S. S. R. as a basic principle of inter-state government. Professor W. J. Ashley sums up the conclusions in his introduction to *The Federalist* (Everyman's Library):

> A very few years had shown the utterly unworkable character of the principle upon which that first American constitution, like those of its European exemplars, rested: the principle of "legislation for the states in their corporate capacities and as contradistinguished from the individuals of which they consist." (*Federalist* No. 15—Hamilton).

Madison, writing in the *New York Packet* on Tuesday, December 11, 1787, asserted: "A sovereignty over sovereigns, a government over governments, a legislation for communities as contradistinguished from individuals, is subversive of the order and ends of civil polity, by substituting *violence* in place of *law*, or the destructive *coercion* of the *sword* in place of the mild and salutary *coercion* of the *magistracy*." A more modern way of describing the difference between a league and a government would be to say that the idea of "government of *States*, by *States*, for *States*" is not only incompatible with Lincoln's ideal; it is also unworkable.

Appeal was made to General Washington to "use his influence", but Washington hit the nail on the head when he pointed out that influence was not government. This idea germinated and bore fruit at the constitutional convention which, at his suggestion, was held in the summer of 1787, at Philadelphia. But even those who believed in the need for a genuine inter-state government responsible in common affairs to the citizens of the entire territory voiced their pessimism in words which are still echoed by the faint-hearted to-day when they contemplate the "United Nations":

> I have grave doubts whether a more energetic government can pervade this wide and extensive country.
> (Alexander Hamilton)

> Can it be supposed that this vast country, including the western territory, will 150 years hence remain one nation?
> (Nathaniel Gorham)

Outside the Convention, too, similar fears were expressed:

> If there is a country in the world where concord would be least expected, it is America. Made up as it is of people from different nations, accustomed to different forms and habits of government, speaking different languages, and more different in their modes of worship, it would appear that the union of such a people was impracticable. (Thomas Paine)

> The mutual antipathies and clashing interests of the Americans, their differences of governments, habitudes and manners, indicate that they will have no centre of union and no common interest. They never can be united under any species of government whatever; a disunited people till the end of time . . .
> (Josiah Tucker, Dean of Gloucester)

It is important to bear in mind that this pessimism was well-founded. The citizens of each colony lived in a world separate and different from the others, with almost impassable wildernesses between them, bridged only by occasional wagon roads, post-tracks and bridle-paths beset by frequently hostile Indians.

Nevertheless, under the leadership of their old general, these stalwart pioneers doggedly set themselves the task of finding out what should be done, and trusted in Providence to show them how to do it. As Washington told the Convention:

> It is too probable that no plan that we propose will be adopted. Perhaps another dreadful conflict is to be sustained. If, to please the people, we offer what we ourselves disapprove, how can we afterward defend our work? Let us raise a standard to which the wise and just can repair. The event is in the hand of God.

Benjamin Franklin put it this way:

> I have lived a long time, and the longer I live the more convincing proofs I see of this truth: that God governs in the affairs of men. And if a sparrow lives closer in space, cannot fall to the ground without His notice, is it probable that an empire can rise without His aid? We have been assured in the sacred writings that "except the Lord build the House they labour in vain that build it". Without His aid we shall succeed in this political building no better than the builders of Babel.

What exactly was the fundamental difference between the confederation or "league of friendship" and the federal constitution drafted by the Convention of 1787, a constitution which is still a living social force, and which now embraces four times as many States and forty times as many people? A paraphrase of an article by Hamilton in the *New York Packet* of 4th December, 1787, may make this clear: A federal government to look after affairs of common concern to all participants must be founded upon the reverse of the league principle. It must carry its agency to the persons of the citizens. It must stand in need of no intermediate legislation, but must itself have power to employ the arm of the magistrate to execute its laws. The majesty of the common will must be manifested through the medium of the courts of justice, as it cannot be done through the haggling of diplomats and numerous Foreign Offices. The government of the Union—of the United Nation—like the government of each member State, must be able to address itself directly to the hopes and fears of individuals, and to derive its support from those passions which have the strongest influence upon the human heart. It must be elected by the citizens whom it is to govern. It must, in short, possess all the means and be able to resort to all the methods of executing the powers with which it is entrusted that are possessed and exercised in their allotted spheres by the governments of the various States.

Hamilton and his friends were firmly convinced by their penetrating analysis that the principle of *con*federation had never worked well and never would. Writing in the *Independent Journal*, he declared that if the measures of the central authority could not be executed without the intervention of the separate State governments, there would be little prospect of their being executed at all. "The execution of the plans framed by the councils of the whole will always fluctuate on the discretion of the ill-informed and prejudiced opinion of every part."

Would that his advice had been heeded in 1919 and afterwards! Were those early federalists alive to-day, they would be at pains to recite verbatim their ironical denunciations of those who talked of putting more force behind an intrinsically brittle instrument, and who would confer on a body lacking the vital characteristics of a government the ornaments of an inter-State "police" force and more elaborate courts of "law", backed by forces "*national*, or international, or *both*"! They would say again that influence is not government, and would ask, among

many other questions, whether it is intended that each national force is to be strong enough to overwhelm any international force which may oppose it, or whether the contrary is to be the case; and if the latter, who shall control the power which controls the international force and ensure that government of the people, by the people and for the people shall not perish from the earth?