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SYMMETRY AND ASYMMETRY AS ELEMENTS OF FEDERALISM: A THEORETICAL SPECULATION

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I

THIS SHORT ESSAY is mainly speculative. It attempts to highlight a principal weakness in theoretical treatments of the concept of federalism, and to offer modifications of the federal concept. It is not in any sense a complete theoretical statement of federalism. Nor is it meant to survey writings on federalism, although it is generally based on a wide sampling from those writings.

Specifically what I want to suggest is that in studies of federalism the prevailing emphases avoid sufficient consideration of the diverse ways in which each member state in a federal system is able to relate to the system as a whole, the central authority, and each other member state. The federal relationship, in any realistic sense, means something very much different to nearly every participant unit in the system. Among the several states in a federal union, cultural, economic, social, and political factors combine to produce variations in the symbiotic connection between those states and the system.

Two concepts, both to be explored in greater detail in a later section, can be introduced and their general content suggested here. The first, the notion of *symmetry* refers to the extent to which component states share in the conditions and thereby the concerns more or less common to the federal system as a whole. By the same token, the second term, the concept of *asymmetry* expresses the extent to which component states do not share in these common features. Whether the relationship of a state is symmetrical or asymmetrical is a question of its participation in the pattern of social, cultural, economic, and political characteristics of the federal system of which it is part. This relation, in turn, is a significant factor in shaping its relations with other component states and with the national authority.

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The format of what follows can be sketched briefly at the outset. The first section is a general assessment of approaches to federalism that have held and do hold sway among contemporary writers on federalism. It seeks to characterize the main tone and style of the literature on federalism by examining in a cursory manner some representative writers in each of three basic schools of thinking about federalism. The second half is a brief discussion of the concept of "symmetry" in the context of American federalism.

II

The most common form of analysis of federalism has been formal and legal. The working of a federal government has been viewed as a question of constitutional law. The balance between the general government and the local authorities is cast in terms of rights, powers, and judicial determinations. The basic assumptions of most writers on federalism have involved the requirement that a federal government needs a constitution so that the sharing of authority essential to the federal principle can be laid down and maintained. Analysis of federalism, then, has entailed investigation of the ways in which those formalized relations contained in the constitution are interpreted and applied. A look at two modern discussions of federalism will help to clarify what this form of analysis involves.

In 1950 Edward S. Corwin published an essay in the *Virginia Law Review* entitled "The Passing of Dual Federalism." It was his intention to trace the manner and direction in which American federalism had undergone major modifications. He argued basically that "the Federal System has shifted base in the direction of a consolidated national power."

Rejecting the importance to this shift of (1) amendments to the Constitution, (2) "judicial translation of . . . the phraseology in which constitutional grants of power to the National Government are couched," and (3) changes in the structural character of American federalism, Professor Corwin found the key to understanding the deterioration of American federal relationships in "the changed attitudes of the Court toward certain postulates or axioms of constitutional interpretation closely touching the Federal System. . . ."

Corwin's argument proceeded to show how constitutional reinterpretation of these "postulates" has altered the federal-state relationship. Alterations, he pointed out, took place in the meanings

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given to (1) the idea that the national government is one of enumerated powers only, (2) the idea that the purposes which it may constitutionally pursue are few, (3) the idea of federal-state equality within their respective spheres, and (4) the idea that the relation of the two centers with each other is one of tension rather than collaboration. In all these areas he found developments leading to the emergence of the National Government as the clearly predominant partner.

The arguments, the evidence, and the method of Professor Corwin's essay had to do throughout with questions of the meanings and interpretations of words and phrases in the Constitution. The federal relationship, for Corwin, was a legal-constitutional one. The study of federalism involved attention to the legal-constitutional adjustments being made in the system by the powers and institutions entrusted with the task of constitutional interpretation. The condition of American federalism could be got at from study of the decisions rendered by the United States Supreme Court.

K. C. Wheare's classic study *Federal Government* illustrates the continuing propensity for formal analyses of federalism. His purposes were in the main legal and institutional, although he was careful to distinguish at least two dimensions of the problem—the difference between the formal federal constitution and the actual institutional workings of federal governments. But, generally, his treatment of federalism was concerned with the ways in which the legal-institutional balance of powers and responsibilities is worked out in existing federal systems.

"By the federal principle," Wheare wrote, "I mean the method of dividing powers so that the general and regional governments are each, within a sphere, co-ordinate and independent." The essential point in understanding federalism, for Wheare, was that "the division is made in such a way that . . . neither general nor regional government is subordinate to the other." The constitution was "federal" if the federal principle, as he has defined it, predominates. A government was federal if it embodied "predominantly a division of powers between general and regional authorities, each of which, in its own sphere, was co-ordinate with the others and independent of them." It was a question of the extent to which the actual working of the government mirrored the relationships specified in the formal elements of a predominantly "federal" constitution.

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Wheare's treatment of federalism was typical of prevailing attitudes toward the problem. He was concerned with federalism as a constitutional ordering of a government (or set of governments). The differentiation between federal constitutions and federal governments should not be overstated. He meant simply to distinguish "written constitutions" from "actual constitutions." In all respects his interest was in showing the ways and the extent to which general and regional governments express "co-ordination and independence" in the allocation of powers and resources, in the separation of spheres of competence, in the provision of services, and the administering of government programs.

The second major approach to federalism derives from controversies early in American political history. I have termed it *Jeffersonian,* but, of course, it is really more broadly based than that. Thomas Jefferson, however, was probably its earliest and most well-known spokesman. The legacy of Jefferson's ideas about federalism has been a significant element in the historical development of American political thought. In one way or another his ideas have figured importantly in nearly all attempts to establish the basis of "states' rights" and local autonomy. The Jeffersonian perspective, then, has had a significant effect in the determination of many characteristically American notions of the nature of federalism—both popular and scholarly.

The heart of Jefferson's notion of federalism was the idea that the more locally the centers of political authority are based the less likely was it that tyranny would be able to develop and flourish. Related closely was the idea that the best government in most cases would be the most local government. Democracy, in the Jeffersonian tradition, was local self-government. "It is not by the consolidation, or concentration of powers," Jefferson wrote in his *Autobiography,* "but by their distribution, that good government is effected. Were not this country already divided into States, that division must be made, that each might do for itself what concerns itself directly, and what it can so much better do than a distant authority."

Moreover, for Jefferson the quality of government varied inversely with the sheer physical distance separating government officials and citizens. "Our country is too large," he wrote in 1800, in a letter to Gideon Granger, "to have all its affairs directed by a single government. Public servants at such a distance, and from

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under the eye of their constituents, must, from the circumstance of distance, be unable to administer and overlook all the details necessary for the good government of the citizens; and the same circumstance, by rendering detection impossible to their constituents, will invite the public agents to corruption, plunder and waste."

This view of federalism was essentially a "political" one rather than a formal-legalistic one. Attention was directed to the political bases for federalism and to the political consequences of the character of the division of powers. It was concerned with the states as units of government and with the democratic base which those state governments provide and protect.

"The great overriding advantage of the federal system," Felix Morley argued in his *Freedom and Federalism,* "is that it operates to avert the dangers inherent in government by remote control. The essence of federalism is reservation of control over local affairs to the localities themselves . . ." And Governor Rockefeller of New York has echoed the same sentiment in his *Future of Federalism:* "I refer to the federal idea broadly as a concept of government by which a sovereign people, for their greater progress and protection, yield a portion of their sovereignty to a political system that has more than one center of sovereign power, energy, and creativity. . . . The federal idea, then, is above all an idea of a shared sovereignty, at all times responsive to the needs and will of the people in whom sovereignty ultimately resides."

Federalism, in this Jeffersonian image, is the fostering of local initiative and qualities of citizenship through the maintenance of maximum governmental authority close to the people.

Rather than concern for the legal-constitutional details of the sharing of authority, the Jeffersonian emphasized the democratic political superiority of local governments. The bias presumed the desirability of democratic forms and procedures, acknowledged the necessity of small or local bodies to the effective working of democracy, and only reluctantly extended power to units further up the hierarchy of govermental levels. Federalism was, at bottom, a range of independent components whose political identity was based primarily on considerations of effectiveness, democracy, and accountability.

In 1952, William S. Livingston, of the University of Texas, challenged students of federalism by introducing his socio-cultural

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theory of federalism. This approach represented a significant change of emphasis in dealing with the problems of federal government. "Federalism," Livingston demanded, "is a function not of constitutions but of societies."

Livingston, writing in the *Political Science Quarterly,* pointed to the extent to which "almost every treatment of federal government and its problems has begun with the assumption that the problem here concerned is one of legal formalism and formal jurisprudence." He criticized this over-emphasis on legalistic concerns by pointing out that the institutional facade may or may not accurately express the social, cultural, and political realities of the society being studied.

Rather than limit himself to making the distinction between federal and non-federal governments and constitutions, Livingston argued that all societies are "more or less closely integrated in accordance with [their] own peculiar historical, cultural, economic, political and other determinants." All societies are made up of "elements that feel themselves to be different from the other elements in varying degrees that demand in varying degrees a means of self-expression." These diverse components of the political society are the basis of its federal character. All societies are more or less integrated or diversified according to this schema. Societies can be ranged, Livingston argued, according to the degree to which they are more or less basically federal. "The essence of federalism lies not in the institutional or constitutional structure but in the society itself. Federal government is a device by which the federal qualities of the society are articulated and protected."

Livingston's essay was a plea for greater realism in the study of federalism. He called for the attention to the underlying social realities and a modification of the heavy emphasis being given to constitutional arrangements. Federal societies give expression to their underlying diversities in many ways. The "instrumentalities" by which the basic federalism finds expression will vary from society to society. The problem is to leave off seeing federalism only in formally "federal" governments, and to seek it in the basic diversity or integration of the society itself. In this way, he argued, the determination of the federal quality of a society could be more meaningfully made and the effectiveness of its political institutions in giving expression to its federal quality could be more clearly determined.

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The basis of federalism in Livingston's view was not the legal considerations of traditional approaches, nor the political, republican and democratic distinctions between local and remote government characteristic of the agrarian liberal tradition in American thought. Federalism, for Livingston, was basically a question of the real social and other geographically expressed divisions in the basic makeup of the nation. Knowing the relationship between institutional and social diversity, one would be better able to explain the important workings of federal political systems.

In all three of the above-outlined approaches to the concept of federalism the perspective from which the federal relationship is viewed leads to an important distortion. Federalism is almost universally defined implicitly in terms of component political and legal units sharing equally the federal relationship among themselves and with the general government. The federal relationship is usually visualized as that between the Federal Government and the State (or all of the States collectively). Regardless of the criteria by means of which federalism is delineated, a federal system is or is not deemed *federal as a whole*. This results in an important distortion because of the obvious fact that a federal system may be more or less federal throughout its parts. That is, the quality and levels of federalism present in the relationship between the central government and each component government considered separately may vary in significant ways throughout the system. The "federalism" of the system is likely to be variegated and disparate among all the essential units.

III

A principal element in federal relationships, both essential to understanding federalism and too often not carefully distinguished and recognized, is the symmetry of the federal system. What I mean by symmetry is the level of conformity and commonality in the relations of each separate political unit of the system to both the system as a whole and to the other component units. The overall extent to which the federal system is characterized by a harmonious pattern of states partaking of the general features of the federal nation is at the core of the symmetry of federalism. The specific elements and the degree of symmetry in the relations of a single mem-

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ber state to the system and to other states and in the total pattern of federalism throughout the system are equally important in assessing the quality of federalism.

THE SYMMETRICAL MODEL

An ideal symmetrical federal system would be one composed of political units comprised of equal territory and population, similar economic features, climatic conditions, cultural patterns, social groupings, and political institutions. In the model symmetrical system each of the separate political units would in effect be miniature reflections of the important aspects of the whole federal system.

Each state would, because of this basic similarity, be concerned with the solution of the same sorts of problems and with the development of the same sorts of potential. There would be no significant differences from one state to another in terms of the major issues about which the political organization of a state might be concerned. Nor would there be significant differences in terms of the political machinery and resources with which the state would approach those major issues.

In the model symmetrical federal system each state would maintain essentially the same relationship to the central authority. The division of power between central and state governments would be nearly the same in every case. Representation in the central government would be equal for each component polity, and support of the activities of that central government would also be equally distributed.

In the symmetrical model no significant social, economic, or political peculiarities would exist which might demand special forms of representation or protection. The basic justification for having a federal constitutional arrangement rather than a unitary one would be found in the completeness and integral character of the various political sub-systems. Separate political existence rapidly becomes a self-justifying arrangement as political loyalties granted to local governments become permanent features of the prevailing political ideology. Each member state, while similar in most important features to every other member state and to the overall character of the federal society, would be a separate unit possessing general problems of its own in the solution of which local authority would

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be thought to be best suited. The federal authority would, in the main, be limited to concerning itself with those problems either common to the federal system *qua* system (e.g.,, problems of international relations), or requiring system-wide attention and resources for solution.

THE ASYMMETRICAL MODEL

The ideal asymmetrical federal system would be one composed of political units corresponding to differences of interest, character, and makeup that exist within the whole society. The asymmetrical federal system would be one in which, as Livingston says of federal systems generally, the diversities in the larger society find political expression through local governments possessed of varying degrees of autonomy and power. Again, following Livingston, an asymmetrical federal government is one in which political institutions correspond to the real social "federalism" beneath them.

In the model asymmetrical federal system each component unit would have about it a unique feature or set of features which would separate in important ways, its interests from those of any other state or the system considered as a whole. Clear lines of division would be necessary and jealously guarded insofar as these unique interests were concerned. In the asymmetrical system it would be difficult (if not impossible) to discern interests that could be clearly considered mutual or national in scope (short of those pertaining to national existence *per se*).

THE CHARACTER OF FEDERAL GOVERNMENTS

Livingston, after developing his theory of socio-cultural federalism, argued that with it he was able to arrange societies in order according to the degree to which they were really federal or unitary. He came a step further than the formal-legal treatments of federalism which allowed really only for determining whether a state was constitutionally federal or unitary and whether that form was being purely applied or not. But both Livingston's categories and criteria and those of the formal-legal approach are only capable of leading to such judgments with respect to an entire political system. That is, they can classify whole nations as being federal or unitary or (in

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Livingston's case) some degree of either. They are unable, however, to provide a theoretical framework suitable for discerning areas of "federalism" or "non-federalism" within a single system. The upshot of this is that they cannot say to what extent parts of the system might be more or less "federal" than others. In assessing and evaluating whole federal governments the ability to discern the pattern of federalization throughout the whole system is crucial.

Thus ordinarily discussions of federalism in the United States have been more or less limited to (1) attention to the particular areas in which state-federal relationships are concentrated, e.g., education, highway construction, the grant-in-aid programs, criminal and civil law, and interstate commerce problems, (2) concern over the growing "octopus" of federal authority and the erosion of "states' rights," and (3) the origins and meanings of federalism in American political history. The general concern seems to have been with the condition of federalism in the United States at large. Now, certainly there is good reason to be concerned with the ways in which federalism has developed, just as there is good reason, in the broader theoretical sense, to pursue the kind of social/functional analyses that Livingston has suggested. But, while these are useful concerns, they go only part of the way.

No federal arrangement is likely to be made up of states each of which stands in exactly the same relationship to the whole system. In actual cases each component unit will tend to reflect (or not to reflect) the overall national character to a greater or lesser extent. A federal system which resembled the symmetrical model would be a very different one and would involve very different legal, political, and economic problems than one which resembled the asymmetrical model. In this connection many important characteristics of the federal relationship can best be explained by a system of analytical categories which take account of the level, nature, and distribution of the system's symmetry. One basic characteristic that can adequately be explained only in this way is federal-state conflict, what might be termed the "secession-potential" of the federal system.

The question of federal-state conflict must be approached in terms of the shared goals, aspirations, and expectations of the elements constituting the federal union. When, through a particular asymmetry in the relationship between a state and the federal authority in consideration of basic processes and needs, the policies

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pursued and the conditions demanded by a single component state are importantly foreign to those of the overall system, then federal-state conflict is likely to be the result. It should be stressed at this point that where state-federal conflict occurs it is most likely to stem from complaints limited to one or just a few of the member states. It is rare for conflict to occur between the central government and *all* the states simultaneously.

Therefore federal-state conflict is a likelihood where the relationship between local and central authorities corresponds to the image of the asymmetrical situation, and where that asymmetry is characteristic only of a few of the states in their relation to the whole. To a real extent, then, the degree of harmony or conflict within a federal system can be thought of as a function of the symmetrical or asymmetrical pattern prevailing within the system. Most real federal states, however, would be somewhere between the complete harmony of the symmetrical model and the complete conflict potential of the asymmetrical model.

For example, the levels of conflict or harmony between California and Washington, D.C., or Mississippi and Washington, D.C., can be viewed in relation to the symmetry of each state's relation to the whole of the United States. The character of society in California is much closer to the pattern of society in the nation at large. Mississippi (or the hard core Southern states generally) differs in a variety of important ways from the social, economic, cultural, and ideological configurations of the nation. Conflict between California and the Federal Government is likely to be less frequent and less intense than in the case of Mississippi. The prevailing attitude of public officials toward the legal and political details of the federal-state relationship is also likely to vary greatly between California and Mississippi. The most basic factor involved and leading in the direction of explaining this difference is the symmetry of the underlying social-political relationship each state has to the nation at large.

I am compelled, at this point, to engage in some unorthodox speculations regarding the relation between the symmetry of a political society and its suitability for federal or unitary political organization. Concern for logical neatness has led, in writings on federalism, to the conclusion that the more diverse the elements within a political system, the better it is suited for federalism, and that the

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more homogeneous the political society the clearer the need for unitary forms. There is a limit, however, in that the diversity can in some cases be so great that not even "federalism" can provide adequate bases for unification under a single political authority. These propositions appear to be pure common sense, but I am suggesting that this is deceiving, that they are not as true in all cases as they are assumed to be, and that they are often downright false and misleading.

A viable federal system can be examined from at least two points of view. One can concentrate on the question of the desirability of adopting a federal system in a particular set of social and political circumstances, or one can inquire into the workings of a particular extant federal system with a view to unearthing the factors contributory to its success. Depending upon the emphasis, the questions asked and the answers accepted must be very different.

Whether a particular country or collection of countries should adopt a federal structure is intimately bound up with the question of the symmetry of the whole. If, in the underlying structure, diversity is overwhelmingly predominant (approximating the asymmetrical model), then (according to the logic of the orthodox view of federalism's requisites) there exists a presumption of the applicability of some utilization of the federal principle, assuming, of course, that the diversity is not such as to preclude even federal forms. The argument would entail something to the effect that the various significant diversities ought to find political expression and protection within the system as a whole. Federalism, it is maintained, provides the necessary expression and protection.

The question, of course, really involves setting a hierarchy of values by means of which to judge the overall desirability of federalism. It can not turn simply on the logical formula "diversity, then federalism." The question of the workability of the system comes energetically to mind. Whether a state can function harmoniously with a federal constitution will, I argue, be a result of the level of symmetry within it. The higher the level of symmetry, that is the more each particular section, state, or region partakes of a character general and common to the whole, the greater the likelihood that federalism would be a suitable form of governmental organization. On the other hand, if the system is highly asymmetrical in its components, then a harmonious federal system is unlikely

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to develop. If a formula were to be extracted from this, it would read: *The elements of similarity among component units of a federal system must, if that system is to function at an optimum level of harmony, predominate over existing elements of diversity.* Where diversity of elements is the rule, then it follows (presuming that sufficient political power and motivation exist to achieve unity *at all*) that a unitary and centralized system would be better. When diversity predominates, the "secession-potential" of the system is high and unity would require controls to overcome disruptive, centrifugal tendencies and forces.

Following this reasoning and applying it to a brief discussion of the quality of federalism in the United States, certain interesting conclusions are reached. *First,* the functioning of federalism in the United States has fluctuated with changes occurring in the underlying makeup of its basic components. Periods of greatest harmony in the relations between states and the federal authorities and among states themselves have paralleled periods in which the differences among the states have been overshadowed by the factors compelling to symmetry. *Second,* the periods of conflict and tension within the American federal system have been at times when particular interests and problems in some of the component states have developed independently to such proportions that their protection and expression overrode considerations of the common interest. In order for the political parcelling-out of authority basic to any definition of federalism to be part of a working system it is essential that the component units have shared characteristics to such an extent that the common pursuits are never lost sight of. *Third,* regions of the country where federalism is most hotly questioned, its constitutional features most frequently argued, and the propensity for subverting national interest the highest are just those areas in which certain problems have taken such deep hold of political life that they destroy the symmetry of the federal relationship. If the entire United States reflected relationships like those typical of the states of the Deep South, then federalism in the United States would long since have perished. Areas within the nation whose relationship to the whole is generally asymmetrical are just those areas in which federal presence is most keenly felt and in which meaningful participation in national affairs most often necessitates compulsion.

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IV

The concept of federalism has been a major panacea in Western political thought for an incredible range of problems—from the creation of new nation-states, the provision of goverment in metropolitan areas, to the creation of organizations designed to prevent international war. Federalism has been a kind of universal answer to the question of overcoming problems of diversity and disparity in the interests of harmony and unity. Whenever events have seemed to demand cooperation and coordination, while interests and anxieties have held out for the preservation of difference and diversity, the answer has almost unfailingly been some form of federalism. It is in this connection, then, that a clear understanding of the strengths and weaknesses, the benefits and liabilities, the predictability and the surprises of federalism is particularly important.

If there is anything of merit in the speculations which comprise the bulk of this essay, it seems clear that much of the ordinary optimism regarding the near magical qualities of federalism can profitably be reexamined. The most basic question that must be asked, then, is: To what extent can "federalism" he expected to sustain the stimulus to and the need for unity in the face of the pressures of separatism? The answer, plainly, is: To the extent that the forces of unity are dominant. Unless there is some factor or set of factors which clearly and inexorably push in the direction of commonality, then the pressures of asymmetry will increasingly present themselves, making continued federal existence nearly impossible.

This is a discomforting way of thinking about federal principles of governmental organization because among the implications that derive from it is the idea that diversity, a factor so often raised by proponents of increased local autonomy in federal systems, tends really to necessitate increased central authority if the system is to continue operating as a system. Relieving the tensions and discord often attendant upon asymmetrical systems requires not further recognition of the elements of diversity and their protection in the complicated processes of ever-increasing federalization, but rather increased coordination and coercion from the centralizing authorities in the system. The implications of this kind of thinking about the federal process may entail serious skepticism regarding the feasibility of using federalism as a means of politically organizing local, regional, national, and international communities.

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